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REQUEST FOR PROPOSAL

RFP #11-S-033

**MAJOR REPAIRS AND MAINTENANCE OF ELEVATORS
AT VARIOUS RESIDENTIAL AND ADMINISTRATIVE SITES ON AN AS-NEEDED ON-CALL BASIS**

PART 1 OF 3

SCOPE OF SERVICES

CONTRACTS DIVISION

PROPOSAL SUBMISSION:
December 23, 2011
AT 1:00 PM

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**NEWARK HOUSING AUTHORITY
RESPONSE FOR PROPOSAL**

**MAJOR REPAIRS AND MAINTENANCE OF ELEVATORS
AT VARIOUS RESIDENTIAL AND ADMINISTRATIVE SITES ON AN AS-NEEDED ON-CALL BASIS**

RFP #11-S-033

The Newark Housing Authority ("NHA") is accepting Proposals for maintenance and repair of elevators at various residential and administrative sites on an as-needed on-call basis. The contract term is for a period of two (2) years with an option to renew for one (1) additional one (1) year period at the sole option of NHA.

NHA will receive sealed responses to the RFP at 500 Broad Street, 5th Floor, Contracts Division, Newark, New Jersey 07102. All response packages shall clearly indicate the specific applicable RFP number and title as **"The Newark Housing Authority #11-S-033, Major Repairs and Maintenance of Elevators at Residential and Administrative Sites On An As-Needed On-Call Basis – REQUEST FOR PROPOSAL"**. An original and four (4) copies, plus one (1) electronic version of the response on either a CD or a disk or flash drive, using Word or PDF file of the response to this RFP shall be supplied by Contractor. Responses to the RFP shall be submitted to: Newark Housing Authority, ATTN: **Lori C. Drimba**, CONTRACTS DIVISION 500 Broad Street, 5th Floor, Newark, New Jersey 07102.

A Pre-Proposal Conference will be held on December 1, 2011, in the Finance Conference Room located on the 5th floor at 10:00 AM.

All proposals must be accompanied by a Response Guarantee payable to the NEWARK HOUSING AUTHORITY. The Proposal Guarantee may be a certified check, bank draft or a satisfactory Proposal Guarantee secured by a surety company acceptable to the U.S. Government and authorized to do business in the State of New Jersey. The Proposal Guarantee shall be in the amount of 5% of the proposed amount. **Consent of Surety must accompany the Response Guarantee. Failure to submit a 5% Proposal Guarantee and a Consent of Surety for the full amount of the contract award shall result in the rejection of the proposal.**

The successful Respondent will be required to furnish and pay for a satisfactory Performance Bond in the amount of 100% of the contract as awarded. The surety company for the Performance Bond must be a guaranty or surety company acceptable to the U.S. Department of Treasury. Individual sureties will not be considered. The surety company must be licensed to do business in the State of New Jersey. U.S. Treasury Circular 570, published annually in the Federal Register lists companies approved to act as surety on bonds securing government contracts, the maximum underwriting limits on each contract bonded, and the state in which each company is licensed to do business.

The RFP and contract documents, including specifications are on file at the office of the Newark Housing Authority, Contracts Division, 500 Broad Street, Newark, New Jersey 07102 and can also be downloaded at www.newarkha.org. For further information, please contact **LORI C. DRIMBA** at (973) 273-6426.

Respondents are required to comply with the requirements of NJSA 10:5-31 et seq. and NJAC 17:27 (PL 1975 c 127 Affirmative Action). All Respondents must also comply with 24 CFR 85.36.

The Newark Housing Authority reserves the right to reject any or all responses or to waive any informality in the submission of the response. The NHA also reserves the right to award all or a portion of the award to one (1) or more responsible responsive Respondents. No response shall be withdrawn for a period of sixty (60) days subsequent to the due date of the responses, without the consent of the Newark Housing Authority.

**NEWARK HOUSING AUTHORITY
KEITH D. KINARD
EXECUTIVE DIRECTOR**

RFP INFORMATION AT A GLANCE

NHA CONTACT PERSON:	LORI C. DRIMBA Telephone: (973) 273-6426 Email: ldrimba@newarkha.org
PRE-PROPOSAL CONFERENCE:	DECEMBER 1, 2011 at 10:00 AM Contracts Division - 5 th Floor Conference Room 500 Broad Street, Newark, NJ 07102
QUESTIONS DUE TO NHA IN WRITING	DECEMBER 5, 2011 at 2:00 PM
RELEASE OF ANY REQUIRED ADDENDA:	DECEMBER 9, 2011
HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL:	1. As instructed within Section 5.0 of the RFP document, submit one original and four (4) copies of response; 2. As instructed within Section 2.3, any submissions not including the Non-Curable Items will be rejected.
PROPOSAL SUBMISSION:	DECEMBER 23, 2011 at 1:00 PM Newark Housing Authority Contracts Division 500 Broad Street, 5 th Floor Newark, NJ 07102 The response must be received in-hand and time-stamped by NHA by no later than 1:00 PM on this date.
ANTICIPATED AWARD DATE BY ACTION OF NHA BOARD OF COMMISSIONERS:	January 26, 2012

SECTION 1.0 INTRODUCTION / BACKGROUND

The Newark Housing Authority is a governmental entity established under State Law in 1938, and formed under the United States Housing Act of 1937. Charged with providing affordable, decent, safe and sanitary housing for low-income persons, NHA is the largest provider of affordable housing in the State of New Jersey.

SECTION 2.0 GENERAL INFORMATION

2.1 NHA'S RESERVATION OF RIGHTS

- NHA reserves the right to reject any or all responses, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by NHA to be in its best interests.
- NHA reserves the right to award a single delivery order contract or to award a single delivery order contract for the same or similar supplies or services to two (2) or more sources under this solicitation.
- NHA reserves the right not to award a contract pursuant to this RFP.
- NHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon ten (10) days written notice to the successful Respondent(s).
- NHA reserves the right to determine the days, hours and locations that the successful Respondent(s) shall provide the services called for in this RFP.
- NHA reserves the right to retain all responses submitted and not permit withdrawal for a period of sixty (60) days subsequent to the deadline for receiving responses without the written consent of NHA Director of Procurement & Contracts.
- NHA reserves the right to reject and not consider any response that does not meet the requirements of this RFP, including but not necessarily limited to incomplete responses and/or responses offering alternate or non-requested services.
- NHA reserves the rights to increase or decrease the scope of services without changing the nature of the Contract.
- NHA shall have no obligation to compensate any Respondent for any costs incurred in responding to this RFP.
- NHA shall reserve the right at any time during the RFP or contract process, to prohibit any further participation by a Respondent or reject any response submitted that does not conform to any of the requirements detailed herein.

2.2 RESPONDENT'S RESPONSIBILITIES – CONTACT WITH THE NHA

It is the responsibility of the Respondent to address all communication and correspondence pertaining to this RFP process to the designated Contract Coordinator, **Lori C. Drimba** or the Director of Procurement & Contracts, **Shari Hamilton**. Respondents must not make inquiry or communicate with any other NHA staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for NHA to not consider a response received from any Respondent who has not abided by this directive.

2.3 NON-CURABLE ITEMS

The following requirements shall be considered mandatory items to be submitted at the time specified by the contracting unit for receipt of the response; the failure to submit any one of the mandatory items shall be deemed a fatal defect that shall render the proposal submission unresponsive and that cannot be cured by the governing body.

1. A statement of corporate ownership pursuant to NJSA 52:25-24.2.
2. A listing of sub-contractors as required by NJSA 40A:11-16.
3. A document for the Respondent to acknowledge receipt of any notice or revisions or addenda to the advertisement or RFP documents, or if applicable, the Respondent acknowledges same pursuant to NJSA 40A:11-23.2e.

2.4 PROOF OF BUSINESS REGISTRATION

N.J.S.A. 52:32-44 requires that each Respondent submit proof of business registration prior to contract award. Proof of registration shall be a copy of the Respondent's Business Registration Certificate (BRC). A BRC is obtained from the New Jersey Division of Revenue. Information on obtaining a BRC is available on the internet at www.nj.gov/njbgs or by phone at (609) 292-1730. Be advised, all sole-proprietors may not submit their application online and must leave time to process the application by postal service. A sample of the acceptable forms of proof of NJ Business Registration is contained in Part III of this RFP.

N.J.S.A. 52:32-44 imposes the following requirements on Respondents and all sub-contractors that knowingly provide goods or perform services for a Respondent fulfilling this contract: The Respondent shall provide written notice to its sub-contractors and suppliers to submit proof of business registration to the Respondent. If the response includes the use of named sub-contractors, the Business Registration Certificates for those sub-contractors must be submitted prior to contract award. If the selected Respondent uses sub-contractors not part of the submission, prior to receipt of final payment from a contracting agency, the awardee must submit to the NHA an accurate list of all sub-contractors or attest that none was used. During the term of this contract, the Respondent and its affiliates shall collect and remit, and shall notify all sub-contractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into this State.

A Respondent, sub-contractors or supplier who provides false business registration information or post award, fails to provide proof of business registration for added sub-contractors shall be liable to a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency. Information on the law and its requirements is available by calling (609) 292-1730.

2.5 CAUSES FOR REJECTING RESPONSES:

A response may be rejected for any of the following reasons:

- a. Any non-curable defects pursuant to N.J.S.A. 40A: 11-23.2
- b. All responses pursuant to N.J.S.A. 40A: 11-13.2;
- c. If more than one (1) response is received from an individual, firm or partnership, corporation or association under the same name;
- d. Multiple responses from an agent representing competing Respondents;

- e. The response is inappropriately unbalanced;
- f. The Respondent is determined to possess, pursuant to N.J.S.A. 40A: 11-4b, Prior Negative Experience; or
- g. If the successful Respondent fails to enter into a contract within twenty one (21) days, Sundays and holidays excepted, or unless otherwise agreed upon by the parties to the contract to extend that time. In this case of failure, NHA may accept the response of the next highest scored responsible Respondent. (N.J.S.A. 40A: 11-24b)

A rejected response shall be **DEEMED** a **NO RESPONSE**, and shall be returned to the Respondent.

2.6 METHOD OF CONTRACT AWARD

2.6.1 Sufficient Funds. The length of the contract shall be stated in the public notice and specifications. Pursuant to requirements of N.J.A.C. 5:30-5.1 et seq., any contract resulting from this RFP shall be subject to the availability and appropriation of sufficient funds annually.

2.6.2 Form of Contract. The form of contract shall be submitted by NHA to the successful Respondent. Terms of the specifications/RFP package shall prevail. Respondent exceptions must be formally accepted by NHA.

2.7 PROTESTS

Any actual or prospective Respondent may challenge a RFP specification or protest the award of a contract. In the case of a challenge to the RFP specification, such challenge must be in writing and submitted to the Contracting Officer or the designee no less than three (3) business days prior to the submission of response. The Contracting Officer or designees shall review the matter of the challenge and issue a written decision on the matter. Challenges filed after that time period shall be considered void and thereupon having no effect on NHA from awarding a contract. In the case of the award of a contract, the protest must be in writing and received by the Contracting Officer or the designee within five (5) business days after the notice of the contract award, or the protest will not be considered.

The Respondent shall provide the following:

- 1. Name, address and telephone number, email is optional of the person filing the RFP protest.
- 2. Indicate/specify the RFP number and the description of the solicitation.
- 3. Provide a detailed statement specifying the nature of the complaint.
- 4. Specify the form of relief being sought.

The Contracting Officer or designee shall conduct a review of the protest matter and shall issue a written decision on the matter. The Contracting Officer may, after concurrence of the Chief Legal Officer and with approval by the Executive Director suspend the procurement pending resolution of the protest, if it is warranted by the facts and findings discovered by the Contracting Officer or designee in the review of the protest matter.

SECTION 3.0 SCOPE OF WORK; SPECIFICATIONS; GENERAL INFORMATION.

3.1 SCOPE OF WORK; SPECIFICATIONS; GENERAL INFORMATION.

You are invited to submit a response to the RFP to provide on an as-needed and on-call basis, the furnishing of all necessary labor, material, equipment and other incidental items for the complete maintenance and repair of all elevators owned and operated by the Newark Housing Authority (NHA) as listed in this specification and as required for the continuous and efficient operation of elevators in accordance with the terms herein. The work to be provided by contractor shall be that which cannot be normally performed by NHA's in-house staff.

NHA reserves the right to perform any and all maintenance and repair work utilizing NHA personnel or any other contractor. The work to be performed under the contract is only on an as-needed and on-call basis as requested by NHA.

NHA reserves the right to add or withdraw any or all elevators from the contract as follows, but not limited to:

- If the elevators are under the modernization program, rehabilitation program and under warranty/maintenance coverage period.
- In the event certain buildings or sites are to be closed down.

The work to be performed under this contract is to be divided into three (3) parts (Parts A, B and C). All work under this contract is on an as-needed and on-call basis and only performed as requested by NHA. No work shall be performed without the prior written approval of NHA through a completed Contract Maintenance Service Request form (CMSR) issued by NHA.

The RFP is intended to be general in scope; however, responses must be specific in describing offered maintenance and repair services, especially with regard to schedules, procedures, availability, and compliance; as well as detailing Respondent qualifications, work history, and ability to provide this service in a professional and efficient manner.

Additional information may be requested from Respondents to clarify their response(s). Such requests and responses shall be made in writing. Responses must provide detailed information specific to the request, and the name and contact information for assigned Respondent personnel who will interface with NHA for the purpose of completing the evaluation process.

3.2 PRICING.

PART A: FIXED PRICE BASIS (MAINTENANCE AND REPAIR ITEMS)

NHA has provided a price list (Part A) to be completed by Contractor for all maintenance and repair items for all NHA sites. Contractor shall be paid a fixed price for any work performed under this Part A in accordance with the response submitted. The list prices provided by Contractor include all labor, material, tools, equipment, overhead, profit, insurance cost, supervision and safety equipment cost and any other cost associated to perform that maintenance or repair item. Payment for each specific maintenance or repair work shall be based on the specific price for such work item plus or minus percentage discount/increase submitted by contractor. Contractor shall not be paid on the basis of time and material used for maintenance or repair under this Part A. Part A Price List for this project is provided in Part 3 of 3 of this RFP.

PART B AND C: TIME AND MATERIAL BASIS

When NHA requires contractor to perform any work, needs parts, or maintenance or repair services on elevators which are not listed and itemized in the price list under Part A, payment shall be based on time and material in accordance with the response submitted. At the discretion of NHA, Part B (Hourly Rates) and Part C (Material Mark-Up) shall be utilized for extraordinary work, service calls, troubleshooting and any combination of the listed items.

For work performed under Parts B and C, Contractor shall submit a written price quote and obtain NHA's written approval prior to performing any work. The price quote shall be itemized and Contractor shall use the hourly rates and material mark-up stated in Parts B and C. The price quote shall be based on number of hours and material costs at fair market value (which could be greater than or less than price paid by Contractor) and fair industry standards.

In addition, hourly rates for team (Mechanic and Laborer) in Part B and material mark-up in Part C shall include the cost, labor, fringe benefits, material, tools, equipment, insurance, overhead, profit, security, supervision, safety equipment cost for providing price quotes and cost for any other items associated to perform any maintenance or repair service, including inspections, adjustments, tests and replacement parts, on the elevators.

Extraordinary work is defined as work that is not listed in Part A's price list, but may be required by NHA as a result of severe vandalism, fire, flood, act of God, or result of closing down of buildings or re-opening of buildings for any reason. This extraordinary work shall be performed in accordance with Parts B and C of the RFP.

Should unexpected or extenuating circumstances on some individual job order exceed the quote hours or materials, Contractor shall immediately notify NHA for approval and verification prior to starting any additional work. A written explanation of these extenuating circumstances shall be required by NHA.

Contractor is cautioned that the contract requires that any work performed by contractor shall be supervised properly and that contractor makes an effort to perform the work within the established number of hours.

3.3 ELEVATORS.

Following are the elevator locations and number of elevators per location covered under this contract:

PROPOSAL ELEVATOR ITEM # 1		<i>Stephen Crane Elderly (NJ 2-16)</i>
4 Elevators – 2 Buildings		58 Evergreen Lane, Newark, NJ 60 Cedar Lane, Newark, NJ
# 1 Elevator - 13 Stories		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
# 2 Elevator – 13 Stories		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
# 3 Elevator – 13 Stories		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	

# 4 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
PROPOSAL ELEVATOR ITEM # 2 4 Elevators – 2 Buildings	<i>Kretchmer Elderly (NJ 2-17)</i> 31 and 35 Van Vetchen Street, Newark, NJ 07114
# 1 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 2 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 3 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 4 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
PROPOSAL ELEVATOR ITEM # 3 4 Elevators – 1 Building	<i>GiGi Foushee Towers (NJ 2-19E)</i> 69,79, 89 and 99 Lincoln Street, Newark, NJ
# 1 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 2 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 3 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"

# 4 Elevator – 13 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
PROPOSAL ELEVATOR ITEM # 4 8 Elevators – 4 Buildings	<i>Kretchmer Elderly (NJ 2-21A)</i> <i>100 and 122 Ludlow Street, Newark, NJ</i> <i>963 ad 991 Frelinghuysen Avenue, Newark, NJ</i>
# 1 Elevator – 9 Stories (100 Ludlow Street, Newark, NJ)	
Hoist Motor / Generator HP:	7.5 KW / 12.5 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 2 Elevator – 9 Stories (100 Ludlow Street, Newark, NJ)	
Hoist Motor / Generator HP:	7.5 KW / 12.5 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 3 Elevator - 9 Stories (963 Frelinghuysen Avenue, Newark, NJ)	
Hoist Motor / Generator HP:	7.5 KW / 12.5 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 4 Elevator - 9 Stories (963 Frelinghuysen Avenue, Newark, NJ)	
Hoist Motor / Generator HP:	7.5 KW / 12.5 HP
# of Hoist Cables / Size:	4 Cables / ½"
#5 Elevator -15 Stories (100 Ludlow Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 6 Elevator – 15 Stories (100 Ludlow Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 7 Elevator - 15 Stories (991 Frelinghuysen Avenue, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"

#8 Elevator – 15 Stories (991 Frelinghyusen Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
PROPOSAL ELEVATOR ITEM # 5 6 Elevators – 3 Buildings		Seth Boyden Elderly (NJ 2-21E) 120 and 130 Dayton Street, Newark, NJ 27 Foster Street, Newark, NJ
# 1 Elevator -9 Stories (27 Foster Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
# 2 Elevator - 9 Stories (27 Foster Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
# 3 Elevator - 15 Stories (120 Dayton Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
# 4 Elevator - 15 Stories (120 Dayton Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
#5 Elevator – 15 Stories (130 Dayton Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	
# 6 Elevator - 15 Stories (130 Dayton Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½”	

PROPOSAL ELEVATOR ITEM # 6 4 Elevators – 2 Buildings		<i>Seth Boyden Elderly (NJ 2-21F)</i> 46 Evergreen Avenue, Newark, NJ 839 Frelinghuysen Avenue, Newark, NJ)
# 1 Elevator – 9 Stories (869 Freilinghuysen Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 2 Elevator - 9 Stories (869 Freilinghuysen Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 3 Elevator – 13 Stories (46 Evergreen Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 4 Elevator - 13 Stories (46 Evergreen Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
PROPOSAL ELEVATOR ITEM # 7 4 Elevators – 2 Buildings		<i>Baxter Elderly (NJ 2-22B)</i> 9 and 25 Summit Street, Newark, NJ
# 1 Elevator – 13 Stories (9 Summit Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 2 Elevator - 13 Stories (9 Summit Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 3 Elevator – 13 Stories (25 Summit Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	

# 4 Elevator - 13 Stories (25 Summit Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
PROPOSAL ELEVATOR ITEM # 8 6 Elevators – 3 Buildings		Stephen Crane Elderly (NJ 2-22C) 880, 900 and 920 Franklin Avenue, Newark, NJ
# 1 Elevator -2 Stories (880 Franklin Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 2 Elevator - 2 Stories (880 Franklin Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 3 Elevator - 2 Stories (900 Franklin Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 4 Elevator - 2 Stories (900 Franklin Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
#5 Elevator - 2 Stories (920 Franklin Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
# 6 Elevator - 2 Stories (920 Franklin Avenue, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	
PROPOSAL ELEVATOR ITEM # 9 6 Elevators – 3 Buildings		Stephen Crane Elderly (NJ 2-22D) 789, 801 and 815 North 6 th Street, Newark, NJ
# 1 Elevator -9 Stories (789 North 6 th Street, Newark, NJ)		
Hoist Motor / Generator HP:	10 KW / 15 HP	
# of Hoist Cables / Size:	4 Cables / ½"	

# 2 Elevator - 9 Stories (789 North 6th Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 3 Elevator - 9 Stories (815 North 6th Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 4 Elevator - 9 Stories (815 North 6th Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
#5 Elevator - 15 Stories (801 North 6th Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 6 Elevator - 15 Stories (801 North 6th Street, Newark, NJ)	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
PROPOSAL ELEVATOR ITEM # 10	J. C. White Manor (NJ 2-25)
2 Elevators – 1 Building	516 - 518 Bergen Street, Newark, NJ 07108
# 1 Elevator – 15 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
# 2 Elevator – 15 Stories	
Hoist Motor / Generator HP:	10 KW / 15 HP
# of Hoist Cables / Size:	4 Cables / ½"
PROPOSAL ELEVATOR ITEM # 11	NHA Warehouse
1 Elevator – 1 Building	64-68 Sussex Avenue, Newark, NJ 07103
# 1 Elevator – 3 Stories	
Hoist Motor / Generator HP:	TBD
# of Hoist Cables / Size:	TBD

PROPOSAL ELEVATOR ITEM # 12		<i>Central Office</i> 500 Broad Street, Newark, NJ 07102
4 Elevators – 1 Building		
# 1 Elevator – 7 Stories		
Hoist Motor / Generator HP:	20 KW / 31 HP	
# of Hoist Cables / Size:	5 Cables / ½"	
# 2 Elevator - 7 Stories		
Hoist Motor / Generator HP:	20 KW / 31 HP	
# of Hoist Cables / Size:	5 Cables / ½"	
# 3 Elevator – 7 Stories		
Hoist Motor / Generator HP:	20 KW / 31 HP	
# of Hoist Cables / Size:	5 Cables / ½"	
# 4 Elevator - 7 Stories		
Hoist Motor / Generator HP:	20 KW / 31 HP	
# of Hoist Cables / Size:	5 Cables / ½"	

NHA reserves the right to decrease or increase the Scope of Work on each and every elevator and/or exclude or include elevators at its discretion during the term of the contract.

3.4 CONTRACTOR RESPONSIBILITIES.

The work to be performed by the Contractor under this contract shall consist of, but not be limited to, furnishing all material, labor, supervision, safety equipment, tools, supplies and other expenses necessary to provide maintenance and repair services of every description, including, but not limited to, inspections, adjustments, tests and replacement parts for the elevators. NHA will not provide or pay any additional cost for any tools, equipment, security, and storage space for tools, equipment and materials, or vehicles or costs for transportation of men, materials and equipment, under this Contract.

The contract services shall include, but not be limited to, the following:

- 3.4.1 Contractor must supply and install all elevator materials as required by NHA under a CMSR.
- 3.4.2 Contractor must supply all miscellaneous materials as required by NHA under a CMSR.
- 3.4.3 Contractor must provide for the removal of all unused materials and/or proper storage of flammable or hazardous materials (e.g., cardboard, oils, cleaning fluids, etc.) on a daily basis.
- 3.4.4 Contractor shall provide maintenance services at a constant, high quality level to properly protect all equipment from deterioration and to provide constant peak performance of all equipment.

3.4.5 Contractor shall furnish and use lubricants as recommended by the manufacturer of equipment or approved equal.

3.4.6 Contractor shall be responsible for notifying NHA, in writing, of the existence of or development or any defects in, or repairs required to, the elevator equipment, which the Contractor does not consider to be its responsibility under the terms of the contract. The Contractor shall furnish NHA with a written estimate of the cost to correct any such defects or make the required repair. NHA reserves the right to make the final determination concerning the responsibility for such defects, corrections or repairs.

3.4.7 With the exception of extraordinary work as defined in Section 3.2 hereof, the Contractor shall not be required to make repairs necessitated by proven negligence or misuse of the equipment by persons other than the Contractor, his representative and employees, or by reason of any other proven cause except for normal wear and tear, beyond the control of the Contractor.

3.4.8 All material and equipment furnished by the Contractor shall be new and specifically designed for the elevators on which they are to be installed. All old parts removed from NHA equipment shall be returned to NHA upon completion of repairs. No reconditioned/rebuilt equipment shall be used on any NHA equipment without the prior written approval and consent of NHA. All equipment must be replaceable OEM and/or generic types and models. No equipment, software, documentation, or service diagnostic tool shall be deemed proprietary in nature if it is used/installed on NHA equipment.

3.4.9 Contractor shall have available at all times for immediate delivery and installation, sufficient quantity of the following emergency spare parts for the repair of each elevator system concerned. The inventory shall include, but not be limited to, the following:

- a. Lamps, minimum two (2) each type.
- b. Door operator motors and gear reduction units.
- c. Transformers and rectifiers for each type and size used.
- d. Relays and switches, minimum one (1) each type.
- e. Generator and motor brush sets for each type and size used.
- f. Controller and selector switch contacts and coils for each size and type used.
- g. Electronic components (one (1) complete set of each manufacturer.
- h. Selector tapes and selector motor when used.
- i. Door interlocks.
- j. Car door electronic edge, complete each type.
- k. All necessary lubricants and cleaning materials.

3.5 MAINTENANCE/REPAIR COMPLETION TIME.

3.5.1 NHA shall only schedule one (1) elevator per bank to be put out of service at a time for maintenance and/or repair. NHA shall determine the day and time of day that each elevator can be shut down for maintenance and/or repair. The time of day that each elevator can be shut down for maintenance and/or repair shall be scheduled by NHA to minimize the disruption caused by the elevators being out of service.

3.5.2 Major repair and minor repair completions can be treated at different service levels. The Contractor must classify for NHA which category the repair falls under. Major repairs must not be treated as normal service actions and will require real time decisions by NHA before they can be addressed by the Contractor. NHA can determine that the repair is major and can afford more correction action completion time. The time of day that a shut down can occur for a major elevator repair shall be scheduled by NHA to minimize the disruption caused by the elevator being out of service.

3.6 SAFETY.

3.6.1 Contractor shall be responsible for initiating, maintaining and supervising all safety precautions in connection with work performed by Contractor's employees.

3.6.2 Contractor must take all reasonable precautions for safety of their employees and must provide all reasonable protection to prevent damage, injury or loss to all employees assigned to work on NHA elevators and all other persons who may be affected. Contractor must exercise care in all work, materials, and equipment to be used, on or off the site, under their care, custody or control.

3.6.3 Contractor must comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public entity having jurisdiction for the safety of persons or property.

3.6.4 Contractor shall be responsible for giving immediate notice to NHA of any condition which the Contractor discovers that may present a hazard to either the equipment or the passengers.

3.7 WORKING HOURS; EMERGENCY SERVICE CALLS.

3.7.1 Maintenance and repair work must be performed during Contractor's normal working hours.

3.7.2 Contractor shall provide twenty four (24) hour per day emergency call back service for all equipment under this contract. Contractor agrees to have a workman report to the site of the emergency within one (1) hour after receipt of such request for such services by telephone or otherwise from NHA. The emergency call back service shall be limited to minor adjustments or repairs of not more than two (2) hours on-site duration in order to provide uninterrupted elevator service. Emergency call back service shall be performed as part of this contract without additional charge. Contractor shall provide NHA with names and telephone numbers of the persons to be contacted in case of an emergency. Contractor's field personnel are to contact NHA upon entering or leaving the premises.

3.7.3 Response time during regular working hours as listed in Section 3.7.1 must be within one (1) hour for regular calls and within thirty (30) minutes for passenger entrapments. Response time outside the regular working hours as listed in Section 3.7.1 Monday through Friday and all of Saturday and Sunday must be within two (2) hours for regular calls and within one (1) hour for passenger entrapments.

3.8 EQUIPMENT, WIRING AND CIRCUIT CHANGES.

Contractor must not make any changes or alterations to the existing mechanical equipment, circuits, circuit wiring, or sequencing, or alter the original circuit or wiring design of the elevators unless changes are authorized in writing in advance by NHA. Contractor must submit any proposed change to NHA for approval. Submission to NHA must include complete drawing and wiring diagrams as well as a complete description of the proposed changes. Contractor shall have obtained comments from the original equipment manufacturer concerning the overall effect of such changes on the system.

3.9 INSPECTIONS AND TESTING.

Contractor shall perform all inspections and testing in accordance with the American National Standard Safety Code of Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI 17.1 & A 17.2 (ANSI A 17.1 Code)

3.10 MATERIALS STANDARDS.

Specific reference to any article, device, product, material, fixture, form or type, etc., by name, make, brand or catalogue number shall be interpreted as establishing a standard of quality, and shall not be construed as limiting competition, and the Contractor shall in such cases, at their option, use any article, device, product or material, fixture, form or type which in the judgment of NHA, is equal to that named. All material must be new.

3.11 PROCEDURES; CONTRACT MAINTENANCE SERVICE REQUESTS.

3.11.1 Procedures.

- a. All work shall be performed during regular working hours on regular working days (i.e. Monday to Friday 8:00 a.m. to 4:30 p.m.), unless otherwise requested and authorized by NHA.
- b. All telephone calls for any service shall be answered and responded to by Contractor to the site within two (2) hours of notification from the authorized NHA personnel.
- c. No overtime or holidays will be worked without prior approval or orders from the authorized NHA personnel.
- d. The following procedures are outlined for the ordering of work under this contract. The instructions and the form "Contract Maintenance Service Request" (CMSR) are made part of this contract and shall be processed and executed accordingly. The Contractor shall adhere to the work order procedure in strict accordance with the following:

Upon receipt of Contract Maintenance Service Request, listing:

1. Project Location
 2. Service Request
 3. Description of work requested
- e. Contractor must immediately proceed to the project site with the necessary materials and equipment to perform requested service.
 - f. Upon completion of the work, the Contractor must complete the CMSR form with all required items.
 - g. In the event Contractor performs any work under Parts B & C herein (Time and Material Basis), the Contractor must submit written price quotes and time of completion (e.g., # of man hours). Work will start only after approval from NHA. Contractor must notify NHA immediately and obtain approval prior to proceeding with any additional work.
 - h. NHA authorized personnel shall be aware at all times when the Contractor has personnel working on any NHA's sites. This is necessary so that proper daily reports, etc. can be maintained (particularly on time and material jobs) where these daily reports, etc., shall be the basis against which the Contractor's price quotes and invoices will be checked.
 - i. Prior to starting work each day and at the end of the work period each day, all of Contractor's personnel must sign the Project Logbook.

- j. The Contractor shall report to and notify Office of Maintenance Services and the Site Superintendent or Manager upon arrival and departure from the site, and also, as to when major repair work will be completed and the downtime of the elevator.
- k. NHA will assign an inspector to the job site.

3.11.2 *Submittal of Contract Maintenance Service Request (CMSR).*

- a. If the Contractor, upon making an on-site inspection of work to be performed, cannot complete the entire job within one (1) complete working day, he must submit in writing to NHA reasons and estimated completion date.
- b. After completion of work, the Contractor must fill out the CMSR forms provided by NHA, including, but not limited to, the following information:
 - 1. Quantity and type of material used.
 - 2. Unit price and total amount per response.
 - 3. Percentage quoted in response for overhead and profit for material mark-up.
 - 4. Number of team hours as quoted in response or price quote.
 - 5. Team hourly rates and extended.
 - 6. Name and title of personnel performing work, and dates and amount of hours worked.
 - 7. Contractor's signature and date.
- c. The Contractor shall attach material invoices and daily job tickets to the CMSR forms.
- d. The Contractor shall submit the entire package to the Contracting Officer of NHA.
- e. Payment will be made receipt of properly executed forms and appropriate supporting documentation. Terms are net 30 days upon receipt of documentation. The Contractor shall submit an invoice/periodical on a monthly basis. Monthly invoices must be submitted no later than the 5th day of each month showing previous amount billed, amount for current invoice, estimated amount for work in progress or pending and available contract balance. This invoice must include all work completed and also showing outstanding work in progress and outstanding CMSR's with estimated amount for completion. It is the Contractor's responsibility to monitor total contract amount and amount utilized. Any work performed in excess of contract amount will be the Contractor's responsibility and NHA will not pay any amount that exceeds the contract award amount.
- f. See Sample Form of "Contract Maintenance Service Request" attached hereto as Exhibit "A."

3.12 PROPERTY DAMAGE.

The Contractor shall, at their expense, replace any property damaged by their operation or personnel during the execution of the work under this Contract.

The damage shall be replaced by qualified mechanics of the trade involved and the material shall be equal to the existing materials.

3.13 GUARANTEE.

The Contractor shall submit to NHA a written guarantee that all work executed under this Contractor shall be free from defects of material and workmanship for a period of one (1) year from the final completion and acceptance by NHA of the work. The Contractor further agrees, that during said period of one (1) year guarantee, immediately upon

being notified by NHA, the Contractor, at their sole cost and expense shall correct all defects in the work or materials, and in addition, shall repair or replace any property that may have become damaged as a result of such defects.

The date of completion of any work shall be the last day the work was inspected and accepted by NHA.

The guarantee shall be in the form of a certificate to NHA on the Contractor's letterhead, properly executed by an officer of the company and shall detail the identity of the contract and work, the final completion date, address and the telephone number at which complaints shall be filed.

3.14 SPECIAL INSTRUCTIONS.

PRE-AWARD

3.14.1 *Familiarity With Sites.* It shall be the Contractor's responsibility to inspect all the sites at the Projects in order to familiarize themselves with the job's conditions and quality and type of work to be performed, so that these specifications will be fully complied with at no additional cost to NHA. Any incomplete response shall be rejected.

3.14.2 *Company/Personnel Resumes.* The Contractor shall submit an outline of the company highlighting the history, previous experience in performing a project of the size and scope that is entailed in the specifications, financial status, compliance with the Affirmative Action policy, personnel and references. Most recent resume of each key personnel who will remain actively involved during the entire life of the contract shall be submitted along with the response. The resume shall include, but not be limited to, experience, training, references and credentials.

3.14.3 *Summary of Response.* The Contractor shall submit a summary of its response confirming that response is complete in all respects. The summary shall highlight the salient features which will help evaluate the response objectively. The features outlined shall include, but not be limited to, the quality of the labor, materials and workmanship; code and standards; safety and security measures; work procedures and labor practice; and any new ideas based on sensitivity and creativity.

3.14.4 *Multiple Award of Contract; Obtaining Services From Additional Contractor.* NHA reserves the right to award all or a portion of this contract to one or more qualified Contractors in the best interest of NHA. At NHA's discretion, NHA can call in any other contractor, if the Contractor does not respond within a reasonable time period from authorization of work. Contractor will be charged for any additional cost difference for obtaining services from another Contractor or Vendor.

POST-AWARD

3.14.5 *Contractor Submission of Invoices/Periodicals.* The Contractor shall submit monthly invoices/periodicals, indicating the CMSR form number, amount of bill previously submitted, balance on the contract amount and also estimated amount for work in progress or pending. The Contractor must also submit completed CMSR forms with monthly invoice/periodical. All monthly invoices must be submitted no later than the 5th day of each month. The Contractor must monitor the amount utilized on this contract. It will be the Contractor's responsibility to monitor this amount and NHA will not pay any amount that exceeds the contract amount.

3.15 WAGE REQUIREMENTS / DAVIS BACON AND RELATED ACTS (DBRA).

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wages and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

The United States Department of Labor (DOL) has oversight responsibilities to assure coordination of administration and consistency of enforcement of the labor standards provision of the DBRA. Under this authority, DOL has issued regulations establishing standards and procedures for the administration and enforcement of the Davis-Bacon labor standards provisions. Federal contracting agencies (e.g., NHA), etc.) have day-to-day responsibility for administration and enforcement of the David-Bacon labor standards provisions in covered contracts for which they are responsible or to which they provide federal assistance under the laws they administer.

The wage rate determination number NJ100036 provided by HUD dated September 2, 2011 for this project is provided in Section 4 of Part 2 of 3 of this RFP.

Bidder is required to create and maintain records demonstrating their compliance with HUD-determined prevailing wage requirements.

Additional information pertaining to DBRA can be found on the following website <http://www.dol.gov/compliance/laws/comp-dbra.htm>.

SECTION 4. CONTRACT REQUIREMENTS

4.1 CONTRACT TERM; OPTION TERMS

4.1.1 Contract Term. It is anticipated that the term of the contract will be for a term of two (2) years with an option to renew for a period of one (1) year at the sole discretion of NHA subject to availability of annually appropriated funding for the contract. NHA may determine it is in the best interest of NHA to increase or decrease the scope of services of the contract and/or enter into an extension with the successful Respondent. If necessary, written notice of NHA's intention to renew the contract shall be given approximately ninety (90) days prior to the expiration date of each contract period.

4.1.2. Renewal Option Term. If NHA elects to exercise the option to renew the contract for an additional one (1) year period, the contract price for the additional year shall be under the same terms and conditions as the initial contract term.

4.2 PAYMENT

Payment will be made in on a monthly basis on terms of net 30 days after receipt of an approved invoice.

4.3 BOND.

4.3.1 Performance Bond: Respondent shall simultaneously with the delivery of each executed CMSR, submit an executed bond in the amount of one hundred percent (100%) of the acceptable task order as security for the faithful performance of each task order.

Failure to submit this with the executed task order shall be cause for declaring the contract null and void pursuant to N.J.S.A. 40A:11-22. A sample of this bond is included in Part 2 of this RFP #11-S-033.

The performance bond provided shall not be released until final acceptance of the whole work and then only if any liens or claims have been satisfied. The surety on such bond or bonds shall be a duly authorized surety company authorized to do business in the State of New Jersey pursuant to N.J.S.A. 17:31-5.

- 4.3.2 N.J. Worker and Community Right to Know Act: The manufacturer or supplier of chemical substances or mixtures shall label them in accordance with the N.J. Worker and Community Right to Know Law (N.J.S.A. 34:51 et seq., and N.J.A.C 5:89-5 et seq.,). Containers that the law and rules require to be labeled shall show the Chemical Abstracts Service number of all the components and the chemical name. Further, all applicable Material Safety Data Sheets (MSDS) - hazardous substance fact sheet - must be furnished.

SECTION 5.0 SUBMISSION FORMAT

The purpose of the response is to demonstrate the qualifications, service level, and cost for services, competency and capacity of the organization seeking to become a vendor for NHA. The response should summarize briefly the firm and principal team members' qualifications and past experience relevant to the RFP. An original and four (4) copies, plus one (1) electronic version of the response on either CD or disk or flash drive using Word or PDF file of the response should be submitted.

5.1 LETTER OF INTEREST

This letter should include the name of the Respondent, the location of the principal place of business, the type of business entity (e.g., corporation, partnership, etc.), and the state of organization. The name of the primary contact person must accompany the submission. The letter should summarize briefly the firm and principal team members' qualifications and past experience relevant to the RFP.

5.2 NON-CURABLE DOCUMENTS:

5.2.1 Stockholders Disclosure Certification: Provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any goods and services, unless, prior to the receipt of the response or accompanying the response of said corporation or partnership, The Respondents shall submit a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent (10%) or more of its stock of any class, or of all individual partners in the partnership who own a ten percent (10%) or greater interest therein. (NJSA 52:25-24.2)

5.2.2 Listing of Sub-contractors and Sub-Contractor Certification: A signed listing of all sub-contractors to be used and completion of certification form. (NJSA 40A:11-16)

5.2.3 Acknowledgement of Receipt of Addenda/Clarifications: A document provided by the contracting agent in the RFP plans, specifications or RFP documents for the Respondent to acknowledge the Respondent's receipt of any notice, revisions, addenda or clarifications to the advertisement or RFP documents. (NJSA 40A:11-23.2e)

5.2.4 Proposal Guarantee: Respondent shall submit with the response a certified check, cashier's check or bid bond in the amount of five percent (5%) **percent of the total price** unconditionally to the owner as allowed by HUD Handbook 7460.8 REV2 6.11(D)(1). When submitting a Bond, it shall contain Power of Attorney for full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the owner. The check or bond of the unsuccessful Respondent(s) shall be returned pursuant to N.J.S.A. 40A:11-24(a). The check or bond of the Respondent to whom the contract is awarded shall be retained until a contract is executed and the required performance bond or other security is submitted. The check or bond of the successful Respondent shall be forfeited if the Respondent fails to enter into a contract pursuant to NJSA 40A:11-21.

5.3 EXECUTIVE SUMMARY/INTRODUCTION/EXPERIENCE

The Executive Summary or Introduction should provide a description of the scope of services to be performed and list all proposed sub-consultants, or contracts, if any. Attach a copy of the company's corporate organization chart including an organizational chart of the corporate division that will provide the services. The response should state

and include a copy of all licenses and key personnel resumes of all providers expected to work on or provide technical assistance for this project, work plan, programmatic goals, and delivery methods, including any subcontract provider the Respondent possesses to demonstrate its qualifications to perform this service.

Also, state all professional associations that the company holds active membership. Provide information regarding the work history of the company for the past five (5) consecutive years. Such information should include work experience similar to the requirements of this RFP. Such work history should demonstrate the ability of the Respondent's company to provide the requested services in a manner that is satisfactory to NHA.

5.4 STATEMENT OF RESPONDENT'S QUALIFICATIONS:

The successful Respondents must have a proven reputation that demonstrates their ability to provide one or more of these services in a cost efficient and successful manner. The Respondent must have at least a minimum of five (5) years of experience providing this type of service and the financial capability to take on this task without financial hardship.

Respondent shall complete form provided in Part 3 of this RFP #11-S-033.

5.5 REFERENCES

Respondent shall complete reference form provided in Part 3 of the RFP # 11-S-033 and provide current references from at least three (3) organizations or clients (excluding NHA) that can address your specific capabilities as they relate to the requirements of the RFP. Include the following for references:

- a. List of municipal or government organization currently represents and for what type(s) of service (provide contact names and telephone numbers); and
- b. Contact names and telephone numbers of clients in the State of New Jersey with whom organization has had a working relationship

5.6 FINANCIAL STATEMENT

Respondent shall demonstrate its financial stability by the submission of audited financial statements or annual reports from the previous two (2) years, or the two (2) most recently available, or such other information as is reasonably acceptable to NHA.

5.7 RESPONSE.

All prices and amounts must be written in ink or preferably machine-printed. Responses containing any conditions, omissions, unexplained erasures or alterations, items not called for in the response form, attachment of additive information not required by the specifications, or irregularities of any kind, may be rejected by NHA. Any changes, whiteouts, strikeouts, etc. in the response must be initialed in ink by the person signing the response.

Each response form must give the full business address, business telephone, fax, e-mail, if available, the contact person of Respondent, and be signed by an authorized representative as follows:

- Responses by partnership must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing.

- Responses by corporations must be signed in the legal name of the corporation, followed by the name of the State in which the corporation was incorporated and must contain the signature and designation of the president, secretary or other person authorized to bind the corporation in the matter.
- Responses by sole-proprietorship shall be signed by the proprietor.
- When requested, satisfactory evidence of the authority of the person signing shall be provided.

5.8 OTHER REQUIRED RESPONSE DOCUMENTS:

Each Respondent is required to submit, in addition to those listed in Sections 5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7, the documents included in the *Response Submission Documents* package. These include:

- a. Checklist
- b. Affidavit of Minority Business / HUD Section 3 Enterprise Participation
- c. Business Registration Certificate & Subcontractors Business Registration Certificate (if applicable)
- d. Affidavit of Non-Collusion
- e. Affidavit of Non-Default
- f. Drug Free Work Place Certification
- g. Certified Statement of Non-Debarment– submit notarized statement, on the firm's letterhead, that The Respondent or partner are not debarred, suspended or otherwise prohibited from professional practice by any Federal, State or Local agency.
- h. Certified Statement of No Liens, Suits or Judgments – submit notarized statement on the firm's letterhead, indicating a description of any disputes, suites, judgments and liens during the past two (2) years.
- i. HUD Form 5369-A: Representations, Certifications and Other Statements of Respondents
- j. HUD Form 2530: Previous Participation Certification
- k. Joint Venture Agreement (if applicable)
- l. Designation of Compliance Officer
- m. Affirmative Action Compliance Notice
- n. Statement of Compliance By All Contractors
- o. Statement of Compliance – Wages
- p. Financial Statement
- q. Section 3 Opportunity Plan

- r. HUD Form 5370-C: General Conditions of the Contract for Non-Construction
- s. Part A Price List (form included, single sheet in sealed envelope, one original and four copies).
- t. Consent of Surety.

SECTION 6.0 GENERAL INSTRUCTIONS

Response submission deadline is by December 23, 2011, at 1:00 PM. It is the Respondent's responsibility that responses are presented to NHA at the time and at the place designated. Responses may be hand delivered or mailed; however, NHA disclaims any responsibility for responses forwarded by regular or overnight mail. If the response is sent by express mail service, the designation above must also appear on the outside of the express mail envelope. Responses received after the designated time and date will be returned unopened.

Respondents are asked to submit an original and four (4) copies, plus one (1) electronic version of the response on either CD or disk, using Word or PDF file addressed to NEWARK HOUSING AUTHORITY - CONTRACTS DIVISION; all response packages shall clearly indicate the specific applicable RFP number and title as **"The Newark Housing Authority #11-S-033, Major Repairs and Maintenance of Elevators at Residential and Administrative Sites On An As-Needed On-Call Basis – REQUEST FOR PROPOSAL"**.

6.1 QUESTIONS

All questions and requests for information must be addressed in writing to **Lori C. Drimba**, Contracts Division with a copy to **Shari Hamilton**, Director of Procurement and Contracts. The deadline for receipt of questions pertaining to this RFP shall be by 2:00 PM on December 5, 2011. All communications pertaining to this RFP shall be addressed to Contracts Division, 500 Broad Street, 5th Floor, Newark, N.J. 07102, by email ldrimba@newarkha.org or by facsimile (973) 273-6549.

NHA will respond to all such inquiries in writing by addendum to all prospective Respondents (i.e. firms or individuals that have obtained the RFP Documents). During the RFP solicitation process, NHA will NOT conduct any ex parte (a substantive conversation—"substantive" meaning, when decisions pertaining to the RFP are made—between NHA and a prospective Respondent when other prospective Respondents are not present) conversations that may give one prospective Respondent an advantage over other prospective Respondents.

6.2 INTERPRETATION AND ADDENDA

The Respondent should rely only on representations, statements or explanations, contained in this RFP, any documents that NHA has provided the Respondent, which are referred to in this RFP, and in such formal written addenda as are issued by NHA prior to the response submission.

6.3 DISCREPANCIES IN RESPONSES

If the amount shown in words and its equivalent in figures do not agree, the written words shall be binding. Ditto marks are not considered writing or printing and shall not be used.

In the event that there is a discrepancy between the individual rates and the extended totals, the rate prices shall prevail. In the event there is an error of the summation of the extended totals, the computation by the owner of the extended totals shall govern.

6.4 PRICING; MINIMUM CONTRACT AWARD

6.4.1 *Tax Exemption.* NHA is a public body corporate and politic, exercising public and essential governmental functions, and as such, qualifies as an exempt organization under Chapter 30 of the Laws of 1996 – sales and Use Tax Act, as amended.

6.4.2 *Change of Scope of Services.* NHA has attempted to identify the need and estimated amounts of work to cover its requirements; however, past experience shows that the amount of work tasked may be different than that submitted for bidding. NHA reserves the right to increase or decrease the work as specified herein pursuant to NJAC 5:30-11.2 and 11.10.

6.4.3 *Permits and Licenses.* Contractor shall be responsible for obtaining any applicable permits or licenses from any government entity that has jurisdiction to require the same. All responses submitted shall have any costs associated therewith included in their response.

6.5 BRAND NAMES; STANDARDS OF QUALITY AND PERFORMANCE.

6.5.1 *Brand Names.* Any brand names and/or descriptions, if any, used in the response are to acquaint Respondents with the types of goods and services desired and will be used as a standard by which goods and services offered as equivalent.

6.5.2 *Variations of Goods and Services.* Variations between the goods and services described herein and the goods and services offered are to be fully identified and described by the Respondent on a separate sheet and submitted with the response proposal form. Contractor literature will not suffice in explaining exceptions to the specifications. In the absence of any exceptions by the Respondent, it will be presumed and required that the goods as described in the specification be provided or performed.

6.5.3 *Equivalency of Goods and Services.* It is the responsibility of Respondent to document and/or demonstrate the equivalency of the goods and services ordered. NHA reserves the right to evaluate the equivalency of the goods and services.

6.5.4 *Infringement.* In submitting its response, the Respondent certifies that the goods and services to be furnished will not infringe upon any valid patent or trademark and that the successful Respondent shall, at its own expense, defend any and all actions or suits charging such infringement, and will save the owner harmless from any damages resulting from such infringement.

6.6 EVALUATION AND SELECTION CRITERIA

SELECTION CRITERIA	SCORE
* Previous Experience/Qualifications (Section 5.0)	30.00%
* NHA's Affirmative Action (Section 7.2)	10.00%
* Capacity and Ability to Meet NHA Requirements (Section 3.0)	30.00%
* Proposed Quality Assurance Plan/Performance of Contract Deliverables (Section 5.0)	15.00%
* Quality of References (Section 5.0)	15.00%
OVERALL SCORE	100.00%

The NHA will make an award to the responsible Respondent whose offer conforms to the solicitation and is most advantageous to the NHA (i.e., that which represents the best value to the NHA), cost or price and other factors considered.

SECTION 7.0 ADDITIONAL INFORMATION**7.1 INSURANCE REQUIREMENTS**

Before commencing of services under this project, the Respondent shall furnish to NHA certificates of insurance showing that the following insurance is in force, stating policy numbers, dates of expiration, limits of liability, deductibles, and aggregate amounts payable hereunder. Certificates of insurance must contain a 30-day cancellation clause and a brief description of the work to be performed. NHA shall be named additionally insured in the Comprehensive General Liability Insurance and Automotive policies. Contractor shall provide NHA with all endorsements, including, but not limited to, endorsement for additional insured.

- a. Worker's Compensation and Employer's Liability Insurance according to the laws of the state in which the Development Team's services are to be performed.
- b. Comprehensive General Liability Insurance (bodily injury and property damage coverage) covering claims made at any time prior, during, or subsequent to completion of the Respondent's services with a limit of not less than \$2,000,000 with a deductible not more than \$10,000.
- c. Automobile Liability Insurance (bodily injury and property damage) covering claims with a \$1,000,000 Combined Single Limit. The policy must include coverage for Hired Car Liability and on-Owned Automobile Liability.
- d. Where an endorsement to the policies is required as a result of a contract with NHA, the amendment shall be made prior to the signing of said contract.

The Respondent shall require each of the sub-contractors to furnish them with certificates of insurance evidencing current policies in force stating policy numbers, dates of expiration, limits of liability, deductibles, and aggregate amounts payable there under. This shall be submitted for review and approval prior to commencement of the sub-contractors' activities. Certificates of Insurance are to be forwarded to NHA upon receipt.

7.2 EQUAL EMPLOYMENT OPPORTUNITY, AFFIRMATIVE ACTION STATEMENT

The goal of the Affirmative Action Program is thirty percent (30%) of the dollar value of the total contract awards and purchases during the fiscal year. The Respondent's commitment to Affirmative Action and Minority Business Enterprises shall be demonstrated by submittal within one hundred twenty (120) days of the contract execution, evidence indicating:

- a. An active Affirmative Action Program, hiring practices, minorities in upper management positions and/or minority ownership.
- b. The utilization of minority owned businesses as subcontractors or Joint Venture partners.

7.3 MANDATORY AFFIRMATIVE ACTION CERTIFICATION

7.3.1 Goods and Services Contracts: No firm may be issued a contract unless it complies with the affirmative action provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1 et seq.

Each contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- i. A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter); or
- ii. A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4; or
- iii. A photocopy of an Employee Information Report (Form AA 302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

The Respondent's submission will be rejected as non-responsive if either one of the required documents is not submitted in the specified time frame.

7.4 SECTION 3 CLAUSE:

All Section 3 covered contracts shall include the following clause (referred to as the "Section 3 Clause):

- (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 a 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 reference, 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.

(g) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

7.5 AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. Respondents are required to read Americans with Disabilities language that is included as Appendix A of the sample contract and agree that the provisions of Title II of the Act are made a part of the contract. The contractor is obligated to comply with the Act and to hold the owner harmless.

7.6 TRUTH IN CONTRACTING

Respondents should be aware of the following statutes that represent "Truth in Contracting" laws:

- a. *N.J.S.A. 2C:21-34, et seq.* governs false claims and representations by Respondents. It is a serious crime for the Respondent to knowingly submit a false claim and/or knowingly make material misrepresentation.
- b. *N.J.S.A. 2C:27-10* provides that a person commits a crime if said person offers a benefit to a public servant for an official act performed or to be performed by a public servant, which is a violation of official duty.
- c. *N.J.S.A. 2C:27-11* provides that a Respondent commits a crime if said person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.

Respondents should consult the statutes or legal counsel for further information.

7.7 TERMINATION OF CONTRACT

7.7.1 Fulfillment of Contract. If, through any cause, the Respondent shall fail to fulfill in a timely and proper manner obligations under the contract or if the Respondent shall violate any of the requirements of the contract, NHA shall there upon have the right to terminate the contract by giving written notice to the Respondent of such termination and specifying the effective date of termination. Such termination shall relieve NHA of any obligation for balances to the contractor of any sum or sums set forth in the contract. NHA will pay only for goods and services accepted prior to termination.

7.7.2 Liability. Notwithstanding the above, the Respondent shall not be relieved of liability to NHA for damages sustained by the owner by virtue of any breach of the contract by the Respondent and NHA may withhold any payments to the Respondent for the purpose of compensation until such time as the exact amount of the damage due NHA from the Respondent is determined.

7.7.3 Indemnification. The Respondent agrees to indemnify and hold the owner harmless from any liability to sub-contractors / suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by NHA under this provision.

7.7.4 Default. In case of default by the Respondent, NHA may procure the goods or services from other sources and hold the Respondent responsible for any excess cost.

7.7.5 Availability of Funding. Continuation of the terms of the contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, NHA reserves the right to cancel the contract.

7.7.6 Acquisition, Merger, Sale and/or Transfer of Business, Etc. It is understood by all parties that if, during the life of the contract, the Respondent disposes of his / her business concern by acquisition, merger, sale and/or transfer or by any means convey his/her interest(s) to another party; all obligations are transferred to that new party. In this event, the new owner(s) will be required to submit all documentation/legal instruments that were required in the original response/contract. Any change shall be approved by NHA. The Respondent will not assign any interest in the contract and shall not transfer any interest in the same without the prior written consent of NHA. NHA may terminate the contract for convenience by providing sixty (60) calendar days advanced notice to the Respondent.

7.8 PAY TO PLAY

Starting in January, 2007, business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year.

Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

7.9 BOARD APPROVAL

The award of this contract is subject to approval of the Newark Housing Authority Board of Commissioners and the continuing availability of funds after approval. This also includes any payment as a result of litigation of any dispute flowing from the award of this contract. Further, any change orders amounting to more than twenty percent (20%) must be approved by action of the Board of Commissioners.

EXHIBIT A

FORM OF
NEWARK HOUSING AUTHORITY
CONTRACT MAINTENANCE SERVICE REQUEST

HOUSING AUTHORITY OF THE CITY OF NEWARK

SERVICE REQUEST No

Date _____

Contractor _____

Contract No.

DESCRIPTION OF WORK REQUESTED:

Is material for this work at Project Site? YES ☐ NO ☐

QUANTITY	TYPE OF MATERIAL USED	CONTRACT OR N. H. A. PART #	UNIT PRICE	AMOUNT
	Note:- If no material used, mark "NO" If Housing material used, mark "H" If Contractor material used, mark "C"			

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Dates _____ Hours _____
 Dates _____ Hours _____
 Dates _____ Hours _____
 Dates _____ Hours _____

Date _____

Signature of Central Maintenance Supervisor

* Name of Personnel Performing Work



Executive Director
KEITH D. KINARD

Chairperson
MODIA BUTLER

BOARD OF COMMISSIONERS
GLORIA CARTWRIGHT
ANGELLA PALMER
NANCY PEREZ
LENIN CRUZ
RASHARD CASEY

REQUEST FOR PROPOSAL

RFP #11-C-033

**MAJOR REPAIRS AND MAINTENANCE OF ELEVATORS
AT VARIOUS RESIDENTIAL AND ADMINISTRATIVE SITES ON AN AS-NEEDED ON-CALL BASIS**

PART 2 OF 3

STANDARD DOCUMENTS

CONTRACTS DIVISION

**PROPOSAL SUBMISSION:
December 23, 2011
AT 1:00 PM**

NEWARK HOUSING AUTHORITY

REQUEST FOR PROPOSAL

#11-S-033

PART 2

STANDARD DOCUMENTS

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SECTION 1	INSTRUCTIONS TO OFFERORS NON-CONSTRUCTION (HUD 5369-B)
SECTION 2	GENERAL CONDITIONS FOR NON-CONSTRUCTION (HUD 5370-C – Sections I and II)
SECTION 3	24 CFR 86.36 (CODE OF FEDERAL REGULATIONS)
SECTION 4	DAVIS BACON WAGE RATES
SECTION 5	SAMPLE CONTRACT

PART 2

SECTION 1

**INSTRUCTIONS TO OFFERORS NON-CONSTRUCTION
(HUD 5369-B)**

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:]

PART 2

SECTION 2

**GENERAL CONDITIONS FOR NON-CONSTRUCTION CONTRACTS
(SECTION I AND II)
(HUD 5370-C)**

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. 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.**

~~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.

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

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

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

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

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

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

22. Procurement of Recovered Materials

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

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work) Office of Labor Relations

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
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-5370C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 968.105) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$100,000 – use Sections I and II.

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

1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
 - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the industry; and
 - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
 - (i) Name, address and Social Security Number;
 - (ii) Correct work classification or classifications;
 - (iii) Hourly rate or rates of monetary wages paid;
 - (iv) Rate or rates of any fringe benefits provided;
 - (v) Number of daily and weekly hours worked;
 - (vi) Gross wages earned;
 - (vii) Any deductions made; and
 - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
 - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice;

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

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).

- ① A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set forth those findings that are in dispute and the

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

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

6. Contract Work Hours and Safety Standards Act

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

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

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

(c) Withholding for unpaid wages and liquidated damages.

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

PART 2

SECTION 3

24 CFR 85.36
(Code of Federal Regulations)

Code of Federal Regulations
Title 24, Volume 1
Revised as of April 1, 2010]
From the U.S. Government Printing Office via GPO Access
CITE: 24CFR85.36

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 85 ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL

Subpart C Post-Award Requirements

Sec. 85.36 Procurement.

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards.

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only--

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition.

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed.

(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price.

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review.

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid

as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

[53 FR 8068, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19642, Apr. 19, 1995]

PART 2

SECTION 4

DAVIS BACON WAGE RATES

**(GENERAL DECISION # NJ100036
DATED 09/02/11)**

General Decision Number: NJ100036 09/02/2011 NJ36

Superseded General Decision Number: NJ20080036

State: New Jersey

Construction Type: Building

County: Essex County in New Jersey.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	03/12/2010
1	05/07/2010
2	06/04/2010
3	07/09/2010
4	08/13/2010
5	08/27/2010
6	09/24/2010
7	10/08/2010
8	12/17/2010
9	01/14/2011
10	02/18/2011
11	04/29/2011
12	06/03/2011
13	06/10/2011
14	07/01/2011
15	07/29/2011
16	08/05/2011
17	09/02/2011

ASBE0032-008 09/19/2009

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (includes the application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems; also, the application of firestopping material to openings and penetrations in walls, floors, ceilings and curtain walls; also, all lead abatement).....	\$ 43.70	27.84

BRNJ0002-014 05/01/2011

	Rates	Fringes
BRICKLAYER (Including Caulking, Cleaning and Pointing).....	\$ 36.70	24.97

Work on high stacks: 22% per hour additional.

BRNJ0002-016 05/01/2011

	Rates	Fringes
MASON - STONE.....	\$ 36.70	24.97

Work on high stacks: 22% per hour additional.

BRNJ0004-001 05/01/2011

	Rates	Fringes
BRICKLAYER (Cement Mason).....	\$ 36.70	24.97

BRNJ0007-022 12/01/2010

	Rates	Fringes
Tile finisher.....	\$ 39.09	21.81
Tile setter.....	\$ 47.98	25.81

Tile finisher:

Work grouting all epoxy: \$10.00 additional per day.

* CARP0006-009 05/31/2011

	Rates	Fringes
CARPENTER (Scaffold Builder).....	\$ 39.70	55%

The first sixty feet at the regular rate, 10% per hour
additional for each additional fifty feet thereafter.

* CARP0006-010 05/01/2011

	Rates	Fringes
CARPENTER Including Acoustical Ceiling Installation, Drywall Hanging, Formwork, Batt and Blown Insulation...	\$ 39.70	55%

CARP0029-008 05/01/2009

	Rates	Fringes
Soft floor layer.....	\$ 39.45	49.75%

* CARP0715-007 05/01/2011

	Rates	Fringes
Millwright.....	\$ 40.49	55%

Work of erection and dismantling of elevators and towers,
such as concrete conveyors and temporary material
elevators, scaffolding or other structures to be used as

scaffolding inside or outside of buildings: the first sixty feet at the regular rate, 10% per hour additional for each additional fifty feet thereafter.

ELEC0164-006 06/01/2010

	Rates	Fringes
ELECTRICIAN (Apartments over 4 units.).....	\$ 48.83	53.5%
ELECTRICIAN (Including Low Voltage Wiring)		
Cable splicer.....	\$ 54.00	54%
Electrician.....	\$ 47.37	54%

Work on line voltage of 440 or 480 volts: 10% per hour additional.

Work from trusses, scaffolds, frames, ladders and poles, 40 ft. or more above the ground or floor (does not include work from a manlift): 20% per hour additional.

Work on radio towers, transmission towers and smokestacks: 21% per hour additional.

* ELEV0001-003 01/01/2011

	Rates	Fringes
Elevator mechanic		
Work on the addition, replacement, refurbishing or relocation of control, drive, generating equipment, hoistway or pit equipment, including work involving a structural rise in the elevator shafts in an existing building and other elevator work in the machine room, hoistway or pit; Also, changes in design and appearance of basic escalator equipment....	\$ 42.31	24.705
All other work.....	\$ 53.27	24.855

PAID HOLIDAYS:

New Year's Day, President's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day.

PAID VACATION:

A worker who has worked less than 5 years: 4% of his or her hourly rate for all hours worked.

A worker who has worked 5 to 10 years: 6% of his or her

hourly rate for all hours worked.

A worker who has worked 15 or more years: 8% of his or her hourly rate for all hours worked.

ENGI0825-020 07/01/2010

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 41.02	25.75
GROUP 2.....	\$ 39.43	25.75
GROUP 3.....	\$ 37.52	25.75
GROUP 4.....	\$ 35.89	25.75
GROUP 5.....	\$ 34.18	25.75

Hazardous waste removal work:

Work on a state or federally designated hazardous waste site, where the worker is in direct contact with hazardous material, and when personal protective equipment is required for respiratory, skin and eye protection: 20% per hour additional.

PAID HOLIDAYS:

New Year's Day, Washington's Birthday observed, Memorial Day, Independence Day, Labor Day, Presidential Election Day, Veteran's Day, Thanksgiving Day and Christmas Day; provided 1) that the worker works three of the preceding five work days before the holiday; or, the work day before the holiday and the work day after the holiday; and, 2) that the worker works the work day before and the work day after the holiday.

DEFINITION OF GROUPS:

GROUP 1:

Backhoe, Including Backhoe Track; Boom; Concrete Paving Machine; Crane (all types, including overhead and straddle traveling type); Drill (down-the-hole drill, rotary drill, self-propelled hydraulic drill, self-powered drill); Elevating Grader; Excavator; Front End Loader (5 cu. yd. and over); Piledriver (length of boom, including length of leads, shall determine premium rate applicable); Trencher

GROUP 2:

Backhoe Loader Combo; Concrete Pumper; Grader/Blade (Finish); Hoist; Hydraulic Crane, 10 Tons and under; Front End Loader (2 cu. yd. but less than 5 cu. yd.); Scraper; Side Boom

GROUP 3:

Asphalt Spreader; Bulldozer; Compressor (2 or 3) (in Battery) (within 100 ft.); Forklift; Front End Loader (1 cu. yd. and over but less than 2 cu. yd.); Lull; Mechanic; Paver, Asphalt; Roller, Blacktop; Tractor;

GROUP 4:

Bobcat/Skid Loader; Compressor (Single); Farm Tractor; Front

End Loader (under 1 cu. yd.); Hydroseeder; Roller, Grade;
Pump, Hydraulic

GROUP 5:
Oiler

IRON0011-012 07/01/2009

	Rates	Fringes
Ironworkers:		
Reinforcing.....	\$ 34.34	35.60
Structural, Ornamental.....	\$ 37.14	35.60

LABO0222-006 05/01/2009

	Rates	Fringes
LABORER		
MASON TENDER:		
Brick/Cement/Concrete.....	\$ 28.55	19.42

LABO0222-009 05/01/2009

	Rates	Fringes
Laborers:		
Asphalt Shoveler, Asphalt		
Spreader, Common or		
General Laborer, Landscape		
Laborer, Pipelayer, Power		
Tool Operator and		
Screedman.....	\$ 28.05	19.42

LABO1030-002 05/01/2009

	Rates	Fringes
Asbestos Removal Laborer.....	\$ 28.05	16.22

The removal, abatement, enclosure and decontamination of personal protective equipment, chemical protective clothing and machinery relating to asbestos and/or toxic and hazardous waste or materials which shall include but not necessarily be limited to: the erection, moving, servicing and dismantling of all enclosures, scaffolding and barricades; the operation of all tools and equipment normally used in the removal or abatement of asbestos and toxic or hazardous waste or materials; the labeling, bagging, cartoning, crating, or other packaging of materials for disposal; the clean-up of the worksite; and all other work incidental to the removal, abatement, encapsulation, enclosure, and decontamination of asbestos and toxic or hazardous waste or materials; and, in addition, all work tasks involved in the maintenance and operation of energy resource recovery plants (co-generation plants)

PAIN0711-018 05/01/2011

	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 36.81	18.79

 PAIN0711-019 05/01/2009

	Rates	Fringes
PAINTER (Brush & Roller).....	\$ 27.72	14.28
PAINTER (Spray).....	\$ 30.50	14.28

 PAIN0711-021 05/01/2011

	Rates	Fringes
Glazier.....	\$ 38.96	18.97

Work welding or using a cutting torch:
 \$1.00 per hour additional.

Work on a swing stage scaffold; on a pipe scaffold providing the working height of the platform is 30 ft. or above; and on motorized lifts provided that the height of the lift platform is above the second floor or above thirty feet:
 \$1.00 per hour additional.

 PLAS0029-003 05/01/2010

	Rates	Fringes
PLASTERER.....	\$ 40.00	21.75

 PLUM0024-014 05/01/2011

	Rates	Fringes
PLUMBER (Excluding HVAC Pipe Installation).....	\$ 46.31	28.09

 PLUM0475-014 05/01/2011

	Rates	Fringes
PIPEFITTER (Including HVAC Pipe Installation).....	\$ 48.94	25.30

 ROOF0004-011 06/01/2009

	Rates	Fringes
ROOFER (Shingles, Shake and Tile).....	\$ 31.57	16.50
Roofer.....	\$ 32.82	18.77

 SFNJ0696-006 07/01/2011

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 51.50	21.15

 SHEE0025-005 06/01/2010

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 43.10	29.13

SUNJ2004-007 01/02/2009

	Rates	Fringes
ROOFERS, Excluding Shingle, Shake and Tile.....	\$ 30.21	15.25

TEAM0408-002 05/01/2008

	Rates	Fringes
TRUCK DRIVER		
Dump Truck.....	\$ 33.00	12.16+a
Off the Road Truck.....	\$ 32.85	12.16+a

a. Employer contributes \$1304.35 per month per worker for health and welfare.

Hazardous waste removal work, where the worker is in direct contact with hazardous material, and when personal protective equipment is required for respiratory, skin and eye protection: \$3.00 per hour additional.

Hazardous waste removal work, where the worker is working in a hazardous waste site, in a zone requiring Level A personal protection for any of the workers: \$3.00 per hour additional.

Hazardous waste removal work, where the worker is not working in a zone requiring Level A, B or C personal protection: \$1.00 per hour additional.

PAID HOLIDAYS:

New Year's Day, President's Day, Decoration Day, Independence Day, Labor Day, Presidential Election Day, Veteran's Day, Thanksgiving Day and Christmas Day; provided that the worker has been assigned to work, or, "shapes", one day of the calendar week during which the holiday occurs.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

 --
 In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

 --

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
 Wage and Hour Division
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7).
 Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

SAMPLE CONTRACT

THIS CONTRACT, entered into as the _____ day of _____ in the year Two Thousand and Eleven, by and between the NEWARK HOUSING AUTHORITY, a body corporate and politic, organized and existing under and by virtue of the laws of the State of New Jersey, having its principal place of business at 500 Broad Street, in the City of Newark, County of Essex and State of New Jersey, hereinafter called "Authority", and, _____, a corporation organized and existing under the laws of the State of _____, with its principal place of business at _____, in the City of _____, County of _____ and State of _____, hereinafter called "Contractor".

ARTICLE 1: SCOPE OF SERVICES

The Scope of Work to be performed under this contract shall include, but not be limited to provide maintenance and repair of elevators at various Authority project sites on an as needed basis as outlined and described in the RFP # 11-S-033 entitled "Major Repairs and Maintenance of Elevators at Various Residential and Administrative Sites On An As-Needed On-Call Basis", hereinafter referred to as "SPECIFICATIONS". For fixed price basis repairs (PART A), services will be performed according to the rates outlined on "Attachment "A" hereto. For time and material basis repairs (PARTS B AND C), services will be performed upon the Authority's prior written approval.

ARTICLE 2: CONTRACT TERM

CONTRACT TERM: The Contract Term is inclusive of an Initial Term and one (1) Renewal option for one (1) year. The Authority reserves the right to cancel the Contract at the end of the term with no penalty for cancellation. If directed by NHA, any CMSR in effect at the time the Contract expires or is terminated shall continue until that work is completed.

INITIAL CONTRACT TERM: The Initial Contract Term of the Contract will be for a period of two (2) years beginning on or about DATE, 2011 through DATE, 2013. The Contractor shall commence the performance of work on this Contract in accordance with the Scope of Services and on the date specified in the written Notice to Proceed issued by the Authority's Contracting Officer.

RENEWAL CONTRACT TERM: The Renewal Term consists of a one (1)-year option to be exercised at the Authority's sole discretion. Written notice of the Authority's intention to extend the Contract shall be given approximately ninety (90) days prior to the expiration date of each Contract Term.

The Authority may require continued performance within the limits and at the rates specified in the Contract. This option may be exercised for a period of time not to exceed six (6) months.

ARTICLE 3: COMPENSATION AND METHOD OF PAYMENT

For fixed price basis repairs (PART A), the Authority shall pay the Contractor for services rendered under this Contract in accordance with the rates as stated on Attachment "A" and for time and material basis repairs (PARTS B AND C), services will be performed upon the Authority's prior written approval. All payments will be made in current funds, in an amount not to exceed _____ and NO/100 DOLLARS (\$XXX,XXX.00) for the Initial Term.

Payments of the Contractor's work shall be made on a monthly basis upon presentation of the Contractor's invoice for services rendered to date. Invoices are to be forwarded to **Newark Housing Authority, Chief Operations Officer, 500 Broad Street, Newark, NJ 07102.**

The award of this contract is subject to approval of the Newark Housing Authority Board of Commissioners and the continuing availability of funds after approval. This also includes any payment as a result of litigation of any dispute flowing from the award of this Contract. Further, any change orders amounting to more than twenty percent (20%) must be approved by action of the Board of Commissioners.

ARTICLE 4: SCHEDULE AND COORDINATION

The schedule and coordination of all work to be completed will be detailed, outlined and approved in the CMSRs.

ARTICLE 5: INSURANCE

Before commencing work, the Contractor shall furnish to the Authority certificates of insurance showing that the following insurance is in force, stating policy numbers, dates of expiration, limits of liability, deductibles and aggregate amounts payable hereunder. Certificates of insurance must contain thirty (30) day written cancellation clause and a brief description of the work to be performed. The Authority shall be named additional insured in the Comprehensive General Liability and Automobile Insurance policies. Certificates shall be submitted to the Authority and must be approved before work commences. Contractor shall provide the Authority with all endorsements, including, but not limited to, endorsement for additional insured.

Worker's Compensation and Employer's Liability Insurance in accordance with the laws of the state in which the Contractor's services are to be performed.

Comprehensive General Liability Insurance coverage/bodily injury and property damage covering claims made at any time prior, during, or subsequent to completion of the Contractor's services with a limit of not less than \$2,000,000 with a deductible not more than \$10,000.

Automobile Liability Insurance (bodily injury and property damage) covering claims with a \$1,000,000 Combined Single Limit. The policy must include coverage for Hired Car Liability and Non-Owned Automobile Liability.

ARTICLE 6: MISCELLANEOUS REQUIREMENTS

TERMINATION FOR DEFAULT: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this Contract or violate any statute or regulation, or if the Contractor shall violate any of the covenants, agreements or stipulations of this Contract, the Authority shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract shall, at the option of the Authority, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the above, the Contractor shall not be relieved of liability to the Authority for damages sustained by the Authority by virtue of any breach of the Contract by the Contractor, and the Authority may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Authority from the Contractor is determined.

COVENANT AGAINST CONTINGENT FEES: The Contractor warrants that he has not employed any person to solicit or secure this Contract upon any contract for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Authority the right to terminate this Contract, at its discretion, for default.

TERMINATION FOR CONVENIENCE: The Authority may terminate this Contract any time by a notice in writing from the Authority to the Contractor. If the Contract is terminated by the Authority as provided herein, the Contractor shall be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to

the total services of the Contractor covered by this Contract, less payments of compensation previously made provided, however, that if less than sixty percent (60%) of the services covered under this Contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out of pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contractor during the contract period which are directly attributable to the uncompleted portion of the services covered by this Contract. If this Contract is terminated due to fault of the Contractor, the above section hereof relative to termination shall apply.

CHANGES: The Authority may, from time to time, request changes in the scope of services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Authority and the Contractor, shall be incorporated in written amendments to this Contract.

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 Authority under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Authority.

INTEREST OF MEMBERS OF CONGRESS: No member of or Delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit to arise there from.

INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES AND FORMER MEMBERS, OFFICERS, OR EMPLOYEES: No member, officer, or employee of the Authority, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the Authority 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/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or the proceeds thereof.

SUBCONTRACTING: None of the services covered by this Contract shall be subcontracted without the prior written consent of the Authority. The Contractor shall be as fully responsible to the Authority for the acts and omissions of his sub-Contractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

COMPLIANCE WITH LOCAL LAWS: The Contractor shall comply with all applicable laws, ordinances, regulations and codes of the State and local governments and shall not trespass on any public or private property in performing any of the work embraced by this Contract.

GOVERNING LAW: This Contract, as well as the rights and obligations of the parties to this Contract, shall be governed by the laws of the State of New Jersey and applicable federal regulations.

ARTICLE 7: SECTION 3 REQUIREMENT

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

- 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.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

ARTICLE 8: EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Contract, the Contractor agrees to endorse the provisions of Section 7.2 and 7.3 of RFP 11-S-033, which are incorporated herein and made a part hereof and as attached hereto as Appendix "A" and Appendix "B."

ARTICLE 9: CONTRACT DOCUMENTS

Contract documents shall consist of the following, but not limited to, component parts:

- a) This Instrument;
- b) Indemnification Agreement;

- c) Request for Proposal # 11-S-033 entitled "**Major Repairs and Maintenance of Elevators at Various Sites On An As-Needed On-Call Basis**";
- d) Section 3 Opportunity Plan dated _____, 201_____; and
- e) Proposal submitted by the Contractor on _____, 201_____, as accepted by the Authority.

This instrument, together with the other documents enumerated in Article 9, are as fully a part of the Contract as if hereto attached or herein repeated. In the event that any provision in one of the component parts of this Contract conflicts with any provision of any other component part, the provision in the component part first enumerated in Article 9 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

ATTEST

CONTRACTOR

Name: _____
Title: _____

Approved as to Form and Legality

ELLEN MICHELLE HARRIS
Chief Legal Officer
Newark Housing Authority

ATTEST

NEWARK HOUSING AUTHORITY

KEITH D. KINARD
Executive Director

Name of Originating Department:

Operations

RFP 11-S-033

ATTACHMENT "A"

FIXED PRICE BASIS

APPENDIX "A"

**AMERICANS WITH DISABILITIES ACT OF 1990
EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITY**

The contractor and the _____ of _____, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. 5121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to proposal by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

APPENDIX "B"

**NJSA 10:5-31 AND NJAC 17:27
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS**

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, 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 age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

INDEMNIFICATION AGREEMENT

This agreement made this _____ day of _____, 201_____, between the Newark Housing Authority ("AUTHORITY") and _____ ("CONTRACTOR") in the County of _____ and State of _____.

WHEREAS, CONTRACTOR has been contracted by the NEWARK HOUSING AUTHORITY to perform election services in accordance with the Contract Documents and all applicable law; and

WHEREAS, parties hereto seek to protect the Authority from any and all potential claim arising from any negligent act of omission of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

NOW, THEREFORE, CONTRACTOR hereby agrees to save and indemnify and keep harmless the AUTHORITY against all liability for claims, demands, judgments and damages including personal and property damage arising from any act by or negligence of CONTRACTOR or its Subcontractors, agents or employees, while in or about the buildings or premises and further agrees to indemnify the AUTHORITY and/or its agents.

Signed and sealed this _____ day of _____, 201_____.

CONTRACTOR:

Principal Name

Company Seal

Subscribed and sworn to before me this _____ day of _____, 201_____.

Notary Public

(NOTARY SEAL)

My Commission Expires: _____

AFFIDAVIT

STATE OF _____)
)
COUNTY OF _____) S.S.:

Be it remembered that on this _____ day of _____, 2011, before me, the subscriber, Notary Public of the State of _____, personally appeared, _____, who, being by me duly sworn on his oath, doth depose and make proof to my satisfaction, that he is the Secretary of _____, the corporation named in the foregoing instrument; that NAME is the President of said corporation, that the execution, as well as the making of this instrument has been duly authorized by a proper resolution of the Board of Directors of said corporation; that deponent well knows the corporate seal of said corporation and the seal affixed to said instrument is such corporate seal and was thereto affixed and said instrument signed and delivered by said President, as and for his voluntary act and deed of said corporation, in the presence of deponent, who thereupon subscribed his name thereto as a witness by like order of the Board of Directors of said corporation.

Secretary

Subscribed and sworn to before me this _____ day of _____, 201____.

Notary Public

(NOTARY SEAL)

My Commission Expires: _____



Executive Director
KEITH D. KINARD

Chairperson
MODIA BUTLER

BOARD OF COMMISSIONERS
GLORIA CARTWRIGHT
ANGELLA PALMER
NANCY PEREZ
LENIN CRUZ
RASHARD CASEY

REQUEST FOR PROPOSAL

RFP #11-S-033

**MAJOR REPAIRS AND MAINTENANCE OF ELEVATORS
AT VARIOUS RESIDENTIAL AND ADMINISTRATIVE SITES ON AN AS-NEEDED ON-CALL BASIS**

PART 3 of 3

SUBMISSION DOCUMENTS
SUBMIT ONE (1) ORIGINAL AND THREE (3) COPIES

CONTRACTS DIVISION

PROPOSAL SUBMISSION:
December 23, 2011
AT 1:00 PM

PART 3

RFP 11-S-033

PROPOSAL CHECKLIST

The following is a check list to aid the Respondent's in completing the submission documents. Please check off the items completed for accuracy and completeness of the submission documents. Please note that certain forms must be completed when the proposal package is returned. Failure to return documents at the time of proposal submission may render proposal as non-responsive.

MANDATORY SUBMITTAL REQUIREMENTS		YES	NO
CHECKLIST (COMPLETED)			
FIXED PRICE BASIS (MAINTENANCE AND REPAIR ITEMS) SCHEDULE			
SECTION 1 (SUBMISSION DOCUMENT)			
1.	Proposal Submission Document (provided within)		
SECTION 2 (NON-CURABLE ITEMS)			
1.	Stockholder Disclosure Certification (provided within)		
2.	Listing of Subcontractors and Subcontractor Certification (provided within)		
3.	Acknowledgement of Addenda/Clarifications (provided within)		
4.	Consent of Surety		
SECTION 3 (OTHER SUBMISSION DOCUMENTS)			
1	Business Registration Certificate & Subcontractors Business Registration (if applicable)		
2.	Affidavit of Minority Business / HUD Section 3 Enterprise Participation (provided within)		
3.	Affidavit of Non-Collusion (provided within)		
4.	Affidavit of Non-Default (provided within)		
5.	Drug Free Work-Place Certification (provided within)		
6.	Certified Statement of Non-Debarment (on company letterhead)		
7.	Certified Statement of No Liens, Suits or Judgments (on company letterhead)		
8.	Joint Venture Agreement (if applicable)		
9.	Statement of Respondent's Qualifications (provided within)		
10.	HUD Form 2530 Previous Participation Certification (provided within)		
11.	References (provided within)		
12.	Designation of Compliance Officer / EEO		
13.	Affirmative Action Compliance Notice (provided within)		
14.	Statement of Compliance By All Contractors (provided within)		
15.	Statement of Compliance – Wages (provided within)		
16.	Financial Statement (provided within)		
17.	Section 3 Opportunity Plan (provided within)		
18.	HUD Form 5370-C General Conditions for Non-Construction (provided within)		
19.	HUD Form 5369-B Instructions to Offerors Non-Construction (provided within)		
20.	Evaluation and Selection Criteria (provided within)		

PART A:

FIXED PRICE BASIS
(MAINTENANCE AND REPAIR ITEMS)

ITEM #	DESCRIPTION	TOTAL COST (WITH OVERHEAD AND PROFIT)
1	Regroove Drive Sheave	\$ _____
2	Replace Drive Sheave	
3	Replace All Hoist Cables	
4	Replace Governor Cable	
5	Replace Traveling Cables	
6	Replace Lighting Cables	
7	Replace Thrust Bearings	
8	Replace Front Glands; Reseal Machine	
9	Replace Main Bearings	
10	Rebuild Front Head of Elevator Machine	
11	Rebuild Rear Head of Elevator Machine	
12	Replace Hoist Motor Complete (DC Motor)	
13	Replace Hoist Motor Complete (AC Motor)	
14	AC or DC Hoist Motor (Single or Double Speed)	
a.1	Removal, Transportation and Reinstallation of Motor	
a.2	Rewind Field Instator for Motor Already in Shop	
a.3	Refurbish Rotor for Motor Already in Shop	
a.4	Replace Front and Rear Motor Bearings for Motor Already in Shop	
b.1	Replace Front and Rear Motor Bearings for Motor in Place in Motor Room	
b.2	Check Motor Control Circuitry in Motor Room	
15	Replace Pulley and Coupling on Hoist Motor	
16	Replace Worm and Gear	
17	Shim and Realign Worm and Gear	
18	Rebuild Governor Mechanism	
19	Install New Governor Mechanism	
20	Rebuild Governor Tension Sheave Assembly	
21	Remove Car Off Safety	
22	Replace Door Operator	
23	Replace Car Door Saddle Nickel Silver	
24	Replace Car Door Saddle Aluminum	
25	Replace Car Door Retractable Clutch Assembly	
26	Safety Edge with E.E.	
27	Rebuild Guide Shoe Stand Nylon Gibs for Cab	
28	Replace Guide Shoe Stand Nylon Gibs for Counterweight	
29	Replace Selector Tape and Magnets and Adjust Floor Stops	
30	Realign Main Guide Rails for Car	
31	Resurface Car Guide Rails	
32	Realign Main Guide Rails for Counterweight	
33	Resurface Counterweight Guide Rails	
34	Replace Main Guide Rail Section and Bracket for Car	

PART A:
FIXED PRICE BASIS
(MAINTENANCE AND REPAIR ITEMS)
(CONT. – Page 2)

ITEM #	DESCRIPTION	TOTAL COST (WITH OVERHEAD AND PROFIT)
35	Replace Main Guide Rail Section and Bracket for Counterweight	
36	Resurface Break Drum	
37	Recondition Governor Auxiliary Safety Equipment, Rods, Safety, Rollers, Etc. (instantaneous safety)	
38	Shorten All Hoist Cables	
39	Shorten Governor Cables	
40	Replace Main Generator	
41	Repair/Rebuild Main Generator	
42	Preventative Maintenance (PER ELEVATOR) of Motor Room (inclusive of the following: cleaning, greasing, oil, replace brushes, service controller, ensure proper operation of all parts and equipment, check electrical and hoist cable(s), clean and service selector cable/tape, governor cables and mechanisms, etc.)	
43	Preventative Maintenance (PER ELEVATOR) of Shaft (inclusive of the following: latch door maintenance, including door and interlocks and mechanisms, adjust car door operator, clean, lube and adjust, insure proper operation, clean elevator pit, and lube governor tension sheave, check gar and hall gibs, replace burn-out indicators, car and hall pb lights	
44	Six (6) Month Test Per Elevator	
45	One (1) Year Test Per Elevator	
46	Five (5) Year Test Per Elevator	
47	MCE Regulator Box – Furnish, Install and Adjust With Full Load Test	
48	Electrolytic 860MF, 450V, 12-05-0035	
49	Motor Start 124/149 MF-330, 17-06-0002	
50	Fuse 250V, 4 amps, Glass, 17-01-0005	
51	Fuse 500V, 10 amps, FNQ, 17-02-0011	
52	EPROM 27256-25, 250NS, 21-04-0003	
53	RLY RWR, A77, DF Contactor 2NO, 27-01-0001	
54	Relay, 4 Form C, PM17AY-120VAC, 27-01-0024	
55	Relay, 4 Form C, PM17AY-240VAC, 27-01-0026	
56	120VAC, PRD11AYO, 27-01-0027	
57	RLY, 4 Form C, MY4-AC115 with LED, 27-03-0004	
58	Res, 50W, 1.5 OHM (ADJ), 31-03-0013	
59	Res, 225W, 5 OHM (Fixed), 31-09-0019	
60	Res, 225W, 10 OHM (ADJ), 31-03-0021	
61	Res, 225W, 25 OHM (Fixed), 31-03-0022	
62	Res, 225W, 100 OHM (Fixed), 31-03-0025	
63	XFMR, 1.5 KVA, 38-01-0041	
64	XFMR, 1 KVA, CUSTOM, 38-03-0004	
65	Call Input / Output Board, HC-CI/O	

PART A:

FIXED PRICE BASIS
(MAINTENANCE AND REPAIR ITEMS)
(CONT. – Page 3)

ITEM #	DESCRIPTION	TOTAL COST (WITH OVERHEAD AND PROFIT)
66	MOD Door Board, HC-DB-MOD	
67	Input / Output Expander Board, HC-IOX	
68	Power Input / Output Board, HC-PI/O	
69	240V, SR Timer Board	
70	Communication Processor Board MS, MC-CP-GM3	
71	Main Processor with Full Diagnostics, MC-MP-1ES	
72	Mini RS-232 / 422 Board LI Rev 2, MC-MRS-1	
73	Aux RS-232, INT, Board, MC-ARS	
74	Dispatching Processor Board (Group M3), MC-DP	
75	Communication Processor Board (Group), MC-CP	
76	Drive Gear / Gearless, Starter Y-Delta / ATL, AC-3 Phase Overload, DC Loop Overload	

PART 3

SECTION 1

**ITEM 1
PROPOSAL SUBMISSION DOCUMENT**

PROPOSAL SUBMISSION DOCUMENT
RFP #11-S-035

FROM:

NAME OF FIRM _____ TELEPHONE # _____

STREET ADDRESS _____ FAX # _____

CITY, STATE AND ZIP CODE _____ EMPLOYER TAX ID # _____

TO: NEWARK HOUSING AUTHORITY
500 BROAD STREET, NEWARK, NEW JERSEY 07102

The undersigned, having familiarized themselves with the Request for Proposal and all attachments, with the Scope of Work as prepared by the **AUTHORITY** and with local conditions affecting the cost of the work, hereby submit this Proposal to furnish all labor, materials, services, equipment and related items required to complete the entire Scope of Work which is to provide maintenance and repair of elevators at various sites on an as-needed on-call basis. The term of the contract shall be for a term of two (2) years with an option to extend for a period of one (1) year at the sole discretion of the NHA.

The prospective respondent acknowledges by submitting this Proposal that he has reviewed all documents of the RFP and the physical, regulatory, environmental, and social conditions of the site and the Scope of Work to be performed, and that the pricing and the completion times are based on the Respondent's knowledge of, and unconditional acceptance of, the contract conditions.

The work shown in the fixed price basis repairs pricing (PART A), time and material basis repairs (PARTS B AND C), and any specifications shall be proposed as itemized prices. The **Itemized prices** should include, but are not limited to, all labor, materials, tools, equipment, overhead, profit, insurance cost, supervision and safety equipment costs and any other costs associated to perform the maintenance or repair.

Sworn to and subscribed before

me this _____ day of

_____, 201____.

Firm Name / Respondent

Name

Notary Public

My Commission Expires: _____

Title

(NOTARY SEAL)

Signature of Respondent

PART 3

**SECTION 2
(NON-CURABLE ITEMS)**

**ITEM 1
STOCKHOLDER DISCLOSURE CERTIFICATION**

**NON-CURABLE DOCUMENT
FORM MUST BE COMPLETED**

*****NON-CURABLE ITEM*****

STOCKHOLDER DISCLOSURE CERTIFICATION
This Statement Shall Be Included with Proposal Submission

Name of Business _____

☐ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

☐ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

☐ Partnership	☐ Corporation	☐ Sole Proprietorship
☐ Limited Partnership	☐ Limited Liability Corporation	☐ Limited Liability Partnership
☐ Subchapter S Corporation		

Sign and notarize the form below, and, if necessary, complete the stockholder list below. Continue on additional page if necessary.

Stockholders:

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Subscribed and sworn before me this ____ day
of _____, 2011.

Name

(Notary Public)

Title

My Commission expires: _____

Signature

(NOTARY SEAL)

(CORPORATE SEAL)

PART 3

**SECTION 2
(NON-CURABLE ITEMS)**

**ITEM 2
SUBCONTRACTOR CERTIFICATION**

**NON-CURABLE DOCUMENT
FORM MUST BE COMPLETED**

*****NON-CURABLE ITEM*****

SUBCONTRACTOR LISTING

Please list the names of all subcontractors to be used on this project. (Add additional sheets where necessary). The subcontractor certification form must be completed for each firm listed.

All subcontractors designated by the respondent shall be capable of doing the work and must have adequate financial resources and experience to perform the work specified. Information regarding the work experience of the designated subcontractor shall also be provided with the proposal. Specifically, the respondent shall include a listing of all relevant jobs performed by the subcontractor within the past two (2) years.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____



The Respondent will not be using any subcontractors.

THIS FORM MUST BE SIGNED, NOTARIZED AND SUBMITTED BY THE RESPONDENT.

Sworn to and subscribed before
me this _____ day of

_____, 201____.

Notary Public

My Commission Expires: _____

(NOTARY SEAL)

Firm Name / Respondent

Name

Title

Signature of Respondent

*****NON-CURABLE ITEM*****

SUBCONTRACTOR CERTIFICATION FORM

All subcontractors designated by the respondent shall be capable of doing the work and must have adequate financial resources and experience to perform the work specified. Information regarding the work experience of the designated subcontractor shall also be provided with the proposal. Specifically, the respondent shall include a listing of all relevant jobs performed by the sub-consultant within the past two (2) years.

Please print the following information legibly. **NOTE:** Provide this information on additional sheets, as required, in accordance with the following format.

How many years has sub-contractor been engaged in this particular field? ____ years.

Subcontractor

Firm Name

Address

Contact Person

Telephone #

Facsimile #

Trade

State License #

THIS FORM TO BE SIGNED, NOTARIZED AND SUBMITTED BY THE SUBCONTRACTOR

Sworn to and subscribed before

me this _____ day of

_____, 201____.

Subcontractor Name

Name

Notary Public

My Commission Expires: _____

Title

(NOTARY SEAL)

Signature of Subcontractor

PAGE 1 OF 2

Provide a list of relevant contracts (company/firm) completed by sub-consultants within the last two (2) years.

DO NOT INCLUDE WORK WITH THE NEWARK HOUSING AUTHORITY.

(This form may be duplicated.)

1.	Company Name	Telephone #	Completion Date
	Address	Contact Person	
	City/State/Zip	Contract Amount	
2.	Company Name	Telephone #	Completion Date
	Address	Contact Person	
	City/State/Zip	Contract Amount	
3.	Company Name	Telephone #	Completion Date
	Address	Contact Person	
	City/State/Zip	Contract Amount	

PART 3

**SECTION 2
(NON-CURABLE ITEMS)**

**ITEM 3
ACKNOWLEDGMENT OF ADDENDUM(S)
AND/OR CLARIFICATION(S)**

**NON-CURABLE DOCUMENT
FORM MUST BE COMPLETED**

*****NON-CURABLE ITEM*****

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA/CLARIFICATION

The undersigned Respondent hereby acknowledges receipt of the following Addenda/ Clarification:

Addendum/Clarification
Number

Dated

Acknowledge Receipt
(initial)



No Addenda/Clarification were received:

THIS FORM MUST BE SIGNED AND SUBMITTED BY THE RESPONDENT.

Sworn to and subscribed before
me this _____ day of

_____, 201____.

Subcontractor Name

Notary Public

Name

My Commission Expires: _____

Title

(NOTARY SEAL)

Signature of Subcontractor

PART 3

**SECTION 2
(NON-CURABLE ITEMS)**

**ITEM 4
CONSENT OF SURETY**

**NON-CURABLE DOCUMENT
FORM MUST BE PROVIDED**

*****NON-CURABLE ITEM*****

SAMPLE

CONSENT OF SURETY

A Performance Bond will be required from the successful Contractor on this project, and consequently, all Respondent's shall submit, with their proposal, a Consent of Surety in substantially the following form:

To: The Housing Authority of the City of Newark ("Owner")
500 Broad Street
Newark, New Jersey 07102

Re: _____ ("Contractor")

Project: **11-S-033 – Major Repairs and Maintenance of Elevators at Various Sites On An As-Needed On-Call Basis**

This is to certify that _____ ("Surety") will provide to the Owner a Performance Bond in the amount of _____ and _____/Dollars (\$ _____) ("Total Amount of the Proposal") in the event that said Contractor is awarded a contract for the above project.

Signed and sealed this _____ day of _____, 201____.

SURETY:

By: _____
Name (Print): _____
Title (Print): Attorney-In-Fact

(CORPORATE SEAL)

**CONSENT OF SURETY MUST BE EXECUTED BY AN AUTHORIZED AGENT OF REPRESENTATIVE
OF A SURETY COMPANY AND NOT BY THE INDIVIDUAL OR COMPANY REPRESENTATIVE SUBMITTING THE PROPOSAL.**

PART 3

SECTION 3

ITEM 1

**BUSINESS REGISTRATION CERTIFICATE &
SUBCONTRACTOR(S) BUSINESS REGISTRATION CERTIFICATE(S)**

SAMPLE

BUSINESS REGISTRATION CERTIFICATES (only these forms will be accepted!)

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE FOR STATE AGENCY AND CASINO SERVICE CONTRACTORS		DEPARTMENT OF TREASURY DIVISION OF REVENUE PO BOX 252 TRENTON, N.J. 08646-0252
TAXPAYER NAME:	TRADE NAME:	
TAX REGISTRATION TEST ACCOUNT	CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#:	SEQUENCE NUMBER:	
970-097-382/500	0107330	
ADDRESS:	ISSUANCE DATE:	
847 ROEBLING AVE TRENTON NJ 08611	07/14/04	
EFFECTIVE DATE:	<i>John S. Tully</i> Acting Director	
01/01/01		
FORM-BRC(08-01)	This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.	



**STATE OF NEW JERSEY
BUSINESS REGISTRATION CERTIFICATE**

Taxpayer Name: TAX REG TEST ACCOUNT

Trade Name:

Address: 847 ROEBLING AVE
TRENTON, NJ 08611

Certificate Number: 1093907

Date of Issuance: October 14, 2004

For Office Use Only:
20041014112823533

PART 3

SECTION 3

ITEM 2

**AFFIDAVIT OF MINORITY BUSINESS /
HUD SECTION 3 ENTERPRISE PARTICIPATION**

STATE OF _____ :
 :
COUNTY OF _____ : SS

<u>Minority Business</u>	<u>Percent of Proposal</u>	<u>Product or Service</u>
<u>HUD Section 3 Enterprise</u>	<u>(or dollar value)</u>	
<u>(address and phone number)</u>		

Sworn to and subscribed before
me this _____ day of _____, 2011.

Notary Public

My Commission Expires:

(NOTARY SEAL)

Affiant Signature

PART 3

SECTION 3

**ITEM 3
AFFIDAVIT OF NON-COLLUSION**

AFFIDAVIT OF NON-COLLUSION

STATE OF _____:

SS

COUNTY OF _____:

The undersigned, being duly sworn according to law, deposes and says:

1. that, as the party making the foregoing Proposal, that such Proposal is genuine and not collusive or sham; that said respondent has not colluded, conspired, connived, or agreed, directly or indirectly, with any respondent or person, to put in a sham proposal or to refrain from submitting a proposal, and has not, in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other respondent, or to fix any overhead, profit or cost element of said proposal price, or of that of any other respondent, or to secure any advantages against the Newark Housing Authority, or any person interested in the proposed contract; and that all statements in said proposal are true.

2. The respondent further certifies that he/she has not been convicted or found liable for any act prohibited by state or federal law involving conspiracy or collusion with respect to proposing on any public contract within the last three (3) years. Such act or conviction does not automatically disqualify a respondent, but may be grounds for administrative suspension or grounds for consideration by NHA as to whether NHA should decline to award a contract to such a respondent on the basis of a lack of responsibility. If respondent has been convicted of any act prohibited by state or federal law involving collusion with respect to proposing on any public contract within the past three (3) years, respondent should attach an explanation of the circumstances surrounding that conviction.

Sworn to and subscribed before
me this _____ day of
_____, 2011.

Firm Name / Respondent

Notary Public

Affiant Name

My Commission Expires: _____

Affiant Title

(NOTARY SEAL)

Affiant Signature

PART 3

SECTION 3

**ITEM 4
AFFIDAVIT OF NON-DEFAULT**

AFFIDAVIT OF NON-DEFAULT

STATE OF _____; SS
COUNTY OF _____;

The undersigned, being duly sworn according to law, deposes and says that, as the party making the foregoing Proposal; I certify as follows:

1. That all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith.
2. That for the period beginning ten (10) years ago the date of this certification, and except as shown by me on the attachment, I have not experienced defaults or non-compliance under any contract for the U.S. Department of Housing and Urban Development, or any other governmental agency with which I have contracts.
3. To the best of my knowledge there are no unresolved findings raised as a result of HUD audits, management reviews or any other Governmental investigations concerning me or work under any of my contracts.
4. There has not been a suspension or termination of payments under any HUD contract in which I have had a legal or beneficial interest attributable to my fault or negligence.
5. I have not been convicted of a felony and am not presently, to my knowledge, the subject of a complaint or indictment charging a felony. (A felony is any offense punishable by imprisonment for more than one (1) year, but does not include any offense classified as a misdemeanor under the laws of a state and punishable by imprisonment of two (2) years or less.)
6. I have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of any State Government or of the City of Newark or the Newark Housing Authority from doing business with such Department or Agency.
7. I have not defaulted on an obligation covered by a bond and have not been the subject of a claim under any fidelity bond.
8. All the names of the parties, known to me to be principals in this contract, in which I propose to participate, are included on resumes submitted with this proposal.
9. To my knowledge I have not been found by HUD or the State of New Jersey to be in noncompliance with any applicable civil rights laws.
10. I am not a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.
11. I am not an officer or employee or commissioner of the Newark Housing Authority who is prohibited or limited by law from contracting with the NHA.
12. For the period beginning five (5) years prior to the date of this certification, and except as shown by me on the attachment, I have not been suspended, debarred or otherwise disqualified by the U.S. Department of Housing and Urban Development, or any other governmental agency with which I have contracted, from doing business with any governmental agency.

13. Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances, which I think, helps to qualify me as a responsible Principal for participation in this project.

Sworn to and subscribed before
me this _____ day of

_____, 2011.

Firm Name / Respondent

Notary Public

Affiant Name

My Commission Expires: _____

Affiant Title

(NOTARY SEAL)

Affiant Signature

PART 3

SECTION 3

**ITEM 5
DRUG FREE WORK-PLACE
CERTIFICATION**

DRUG-FREE WORK-PLACE CERTIFICATION

DRUG-FREE WORK-PLACE ACT OF 1988

41 U.S.C. 701, et seq.

54 FED. REG. 4946, et seq.

The undersigned hereby certifies that he/she will provide a drug-free work-place by publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Respondent's work-place and specifying the actions that will be taken against employees for violation of such prohibition;

1. Establishing a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the work place;
 - b. The Respondent's policy of maintaining a drug-free work place;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employee for violations occurring in the work place;
2. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a):
3. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the Respondent of any criminal drug statute conviction for a violation occurring in the work place no later than five (5) days after such conviction;
4. Notify the Newark Housing Authority ("NHA") within ten (10) days after receiving notice under Subparagraph (d) (2) from an employee, or otherwise receiving actual notice, of such conviction;
5. Taking one of the following actions within thirty (30) days of receiving notice under Subparagraph (d) (2), with respect to any employee who is so convicted;
 - a. Taking appropriate personnel action against such employee, up to and including termination; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
6. Making a good faith effort to continue to maintain a drug-free work place through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

7. Respondent is presently working at the following NHA Sites: _____
_____ or () none.

Sworn to and subscribed before
me this _____ day of
_____, 2011.

Firm Name / Respondent

Notary Public

Name

My Commission Expires: _____

Title

(NOTARY SEAL)

Signature of Respondent

PART 3

SECTION 3

ITEM 6

CERTIFIED STATEMENT OF NON-DEBARMENT

(PROVIDE NOTARIZED STATEMENT ON COMPANY LETTERHEAD)

PART 3

SECTION 3

ITEM 7

CERTIFIED STATEMENT OF NO LIENS, SUITS AND JUDGMENTS

(PROVIDE NOTARIZED STATEMENT ON COMPANY LETTERHEAD)

PART 3

SECTION 3

**ITEM 8
JOINT VENTURE AGREEMENT**

(IF APPLICABLE)

PART 3

SECTION 3

**ITEM 9
STATEMENT OF RESPONDENT'S QUALIFICATIONS**

STATEMENT OF RESPONDENT'S QUALIFICATIONS

NAME OF RESPONDENT: _____

RESPONDENT'S ADDRESS: _____

I. If a corporation, answer the following:

a. Date of Incorporation: _____

b. State of Incorporation: _____

c. President's Name: _____

d. Vice President's Name: _____

II. If an individual or partnership, answer the following:

a. Date of Organization: _____

b. Name(s) and address(es) of Individual/Partners:

III. State background and experience of principals and key personnel.

It is necessary that the respondent present evidence that he has been in business for at least five (5) years, satisfactorily completing similar projects. In addition, he shall submit evidence that his company has the necessary equipment and resources to carry out this scope of work.

1. How many years has your organization been in business performing the type of work required under this contract?

2. State general character of work performed by your company.

3. We normally perform _____ % of the work with our own forces.

4. Have you ever failed to complete or defaulted on any contract awarded to you? If so, state circumstances.

5. Has any officer/partner of your organization ever been an officer/partner of any organization that failed to complete a service contract? If so, state name of individual, organization and reason thereof.

6. List any outstanding liens against your company.

7. Name of the supervisor proposed for this work.

8. Explain in what manner you have inspected site(s).

9. Name of the supervisor proposed for this work.

10. List recent contracts and amounts recently completed.

11. List trade references:

12. List bank references:

Credit available: Please list amount. \$ _____

Will you, upon request, submit a detailed financial statement and furnish any other information required by the Housing Authority of the City of Newark? Yes (). No ().

13. Have you entered into contracts or received firm offers for materials required for preparing your response?
Yes (). No ().

Date: _____

Firm Name / Respondent

Name

Title

Signature of Respondent

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the NEWARK HOUSING AUTHORITY in verification of the recitals comprising this Statement of Respondent's Qualifications.

(Company Name)

(Signature)

(Title)

(Date)

AFFIDAVIT

State of New Jersey)
) SS:
County of _____)

_____, being duly sworn, deposes and says that he is _____
_____ of _____ and that the answers to the foregoing questions and
all statements therein contained are true and correct.

Sworn to and subscribed before
me this _____ day of _____, 2011.

Respondent

Notary Public

Affiant Name

My Commission Expires: _____

Affiant Title

(NOTARY SEAL)

Affiant Signature

PART 3

SECTION 3

**ITEM 10
PREVIOUS PARTICIPATION CERTIFICATION
(HUD FORM 2530)**

Previous Participation Certification

U.S. Department of Housing and Urban Development
Office of Housing/Federal Housing Commissioner

U.S. Department of Agriculture
Farmers Home Administration

OMB Approval No. 2502-0118
(exp 11/30/2012)

Part I To be completed by Principals of Multifamily Projects. See Instructions
Reason for Submitting Certification

For HUD HQ/FmHA use only

1. Agency Name and City where the application is filed

2. Project Name, Project Number, City and Zip Code contained in the application

3. Loan or Contract Amount

4. Number of Units or Beds

5. Section of Act

6. Type of Project (check one)
☐ Existing ☐ Rehabilitation ☐ Proposed (New)

List of all proposed Principal Participants and attach organization chart for all organizations.

7. Names and Addresses of All Known Principals and Affiliates (people, businesses & organizations) proposing to participate in the project described above. (list names alphabetically; last, first, middle initial)

8. Role of Each Principal in Project

9. Expected % Owner ship Interest in Project

10. Social Security or IRS Employer Number

Certifications: I (meaning the individual who signs as well as the corporations, partnerships or other parties listed above who certify) hereby apply to HUD or USDA FmHA, as the case maybe, for approval to participate as a principal in the role and project listed above based upon my following previous participation record and this Certification.

insured project of HUD, USDA FmHA and State and local government housing finance agencies in which I have been or am now a principal.

complaint or indictment charging a felony. (A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by imprisonment of two years or less);

I am not a principal participant in an assisted or insured project as of this date on which construction has stopped for a period in excess of 20 days or which has been substantially completed for more than 90 days and documents for closing, including final cost certification have not been filed with HUD or FmHA

Verify that neither you nor any of your principals or affiliates have ever been found to be in noncompliance with any applicable fair housing and civil rights requirements in 24 CFR 5.105 (a). If you or any of your principals or affiliates have been found to be in noncompliance with any such requirements, attach a signed statement explaining the relevant facts, circumstances, and resolution, if any.

No mortgage on a project listed by me has ever been in default, assigned to the Government or foreclosed, nor has mortgage relief by the mortgagee been given;

I have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency.

To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any applicable fair housing and civil rights requirements in 24 CFR 5.105(a).

I certify that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and Exhibits signed by me and attached to this form. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012, 31 U.S.C. 3729, 3802)

I have not experienced defaults or noncompliances under any Conventional Contract or Turnkey Contract of Sale in connection with a public housing project;

I have not defaulted on an obligation covered by a surety or performance bond and have not been the subject of a claim under an employee fidelity bond.

I am not a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.

I further certify that:

To the best of my knowledge, there are no unresolved findings raised as a result of HUD audits, management reviews or other Governmental investigations concerning me or my projects;

I am not a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined in Standards of Ethical Conduct for Employees of the Executive Branch in 5 C.F.R. Part 2635 (57 FR 35006) and HUD's Standard of Conduct in 24 C.F.R. Part 0 and USDA's Standard of Conduct in 7 C.F.R. Part 0 Subpart B.

Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances which I think helps to qualify me as a responsible principal for participation in this project.

1. Schedule A contains a listing of every assisted or

d. There has not been a suspension or termination of payments under any HUD assistance contract in which I have had a legal or beneficial interest;

3. All the names of the parties, known to me to be principals in this project(s) in which I propose to participate, are listed above.

8. Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances which I think helps to qualify me as a responsible principal for participation in this project.

Typed or Printed Name of Principal

Signature of Principal

Certification Date (mm/dd/yyyy)

Area Code and Telephone No.

This form was prepared by (Please print name)

Area Code and Telephone No.

Previous editions are obsolete

Schedule A: List of Previous Projects and Section 8 Contracts. By my name below is the complete list of my previous projects and my participation history as a principal in Multifamily Housing programs of HUD/FmHA, State, and Local Housing Finance Agencies. **Note:** Read and follow the instruction sheet carefully. Abbreviate where possible. Make full disclosure. Add extra sheets if you need more space. Double check for accuracy. If you have no previous projects write, by your name, "**No previous participation, First Experience.**"

1. List each Principal's Name (list in alphabetical order, last name first)	2. List Previous Projects (give the I.D. number, project name, city location, & government agency involved if other than HUD)	3. List Principal's Role(s) (indicate dates participated, and if fee or identity of interest participant)	4. Status of Loan (current, defaulted, assigned, or foreclosed)	5. Was Project ever in Default, during your participation? Yes No If "Yes," explain	6. Last Mgmt. and/or Physical Inspectn Rating and Date

Part II – For HUD Internal Processing Only

Received and checked by me for accuracy and completeness; recommend approval or referral to Headquarters as checked below:

Date (mm/dd/yyyy)	Telephone Number and Area Code	☐ A. No adverse information; form HUD-2530 approval is recommended.	☐ C. Disclosure or Certification problem
Staff	Processing and Control	☐ B. Name match in system	☐ D. Other, our memorandum is attached.
Supervisor	Director of Housing / Director, Multifamily Division	☐ Approved ☐ Yes ☐ No	Date (mm/dd/yyyy)

Instructions for Completing the Previous Participation Certificate, form HUD-2530

Carefully read these instructions and the applicable regulations. A copy of those regulations published at 24 C.F.R. 200.210 to 200.245 can be obtained from the Multifamily Housing Representative at any HUD Office. Type or print neatly in ink when filling out this form. Mark answers in all blocks of the form. If the form is not filled completely, it will delay approval of your application.

Attach extra sheets as you need them. Be sure to indicate "Continued on Attachments" wherever appropriate. Sign each additional page that you attach if it refers to you or your record. If you have many projects to list (20 or more) and expect to be applying frequently for participation in HUD projects, you should consider filing a Master List. See Master List instructions below under "Instructions for Completing Schedule A."

Carefully read the certification before you sign it. Any questions regarding the form or how to complete it can be answered by your HUD Office Multifamily Housing Representative.

Purpose: This form provides HUD with a certified report of all previous participation in HUD multifamily housing projects by those parties making application. The information requested in this form is used by HUD to determine if you meet the standards established to ensure that all principal participants in HUD projects will honor their legal, financial and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency. HUD requires that you certify your record of previous participation in HUD/USDA-FmHA, State and Local Housing Finance Agency projects by completing and signing this form, before your project application or participation can be approved.

HUD approval of your certification is a necessary precondition for your participation in the project and in the capacity that you propose. If you do not file this certification, do not furnish the information requested accurately, or do not meet established standards, HUD will not approve your certification.

Note that approval of your certification does not obligate HUD to approve your project application, and it does not satisfy all other HUD program requirements relative to your qualifications.

Who Must Sign and File Form HUD-2530:

Form HUD-2530 must be completed and signed by all parties applying to become principal participants in HUD multifamily housing projects, including those who have no previous participation. The form must be signed and filed by all principals and their affiliates who propose participating in the HUD project. Use a separate form for each role in the project unless there is an identity of interest.

Principals include all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations, any other public or private entity, that will participate in the proposed project as a sponsor, owner, prime contractor, turnkey developer, managing agent, nursing home administrator or operator, packager, or consultant. Architects and attorneys who have any interest in the project other than an arm's length fee arrangement for professional services are also considered principals by HUD.

In the case of partnerships, all general partners regardless of their percentage interest and limited partners having a 25 percent or more interest in the partnership are considered principals. In the case of public or private corporations or governmental entities, principals include the president, vice president, secretary, treasurer and all other executive officers who are directly responsible to the board of directors, or any equivalent governing body, as well as all directors and each stockholder having a 10 percent or more interest in the corporation.

Affiliates are defined as any person or business concern that directly or indirectly controls the policy of a principal or has the power to do so. A holding or parent corporation would be an example of an affiliate if one of its subsidiaries is a principal.

Exception for Corporations – All principals and affiliates must personally sign the certificate except in the following situation. When a corporation is a principal, all of its officers, directors, trustees and stockholders with 10 percent or more of the common (voting) stock need not sign personally if they all have the same record to report. The officer who is authorized to sign for the corporation or agency will list the names and title of those who elect not to sign. However, any person who has a record of participation in HUD projects that is separate from that of his or her organization must report that activity on this form and sign his or her name. The objective is full disclosure.

Exemptions – The names of the following

parties do not need to be listed on form HUD-2530: Public Housing Agencies, tenants, owners of less than five condominium or cooperative units and all others whose interests were acquired by inheritance or court order.

Where and When Form HUD-2530 Must Be Filed: The original of this form must be submitted to the HUD Office where your project application will be processed at the same time you file your initial project application. This form must be filed with applications for projects, or when otherwise required in the situations listed below:

- Projects to be financed with mortgages insured under the National Housing Act (FHA).
 - Projects to be financed according to Section 202 of the Housing Act of 1959 (Elderly and Handicapped).
 - Projects in which 20 percent or more of the units are to receive a subsidy as described in 24 C.F.R. 200.213.
 - Purchase of a project subject to a mortgage insured or held by the Secretary of HUD.
 - Purchase of a Secretary-owned project.
 - Proposed substitution or addition of a principal, or principal participation in a different capacity from that previously approved for the same project.
 - Proposed acquisition by an existing limited partner of an additional interest in a project resulting in a total interest of 25 percent or more, or proposed acquisition by a corporate stockholder of an additional interest in a project resulting in a total interest of 10 percent or more.
 - Projects with U.S.D.A., Farmers Home Administration, or with state or local government housing finance agencies that include rental assistance under Section 8 of the Housing Act of 1937. For projects of this type, form HUD-2530 should be filed with the appropriate applications directly to those agencies.
- Review of Adverse Determination:** If approval of your participation in a HUD project is denied, withheld, or conditionally granted on the basis of your record of previous participation, you will be notified by the HUD Office. You may request reconsideration by the HUD Review Committee. Alternatively, you may request a hearing before a Hearing Officer. Either request must be made in writing within 30 days from your receipt of the notice of determination.

If you do request reconsideration by the Review Committee and the reconsideration results in an adverse determination, you may then request a hearing before a Hearing Officer. The Hearing Officer will issue a report to the Review Committee. You will be notified of the final ruling by certified mail.

Specific Line Instructions:

Reason for submitting this Certification: e.g., refinancing, management, change in ownership, transfer of physical assets, etc.

Block 1: Fill in the name of the agency to which you are applying. For example: HUD Office, Farmers Home Administration District Office, or the name of a State or local housing finance agency. Below that, fill in the name of the city where the office is located.

Block 2: Fill in the name of the project, such as "Greenwood Apts." If the name has not yet been selected, write "Name unknown." Below that, enter the HUD contract or project identification number, the Farmers Home Administration project number, or the State or local housing finance agency project or contract number. Include all project or contract identification numbers that are relevant to the project. Also enter the name of the city in which the project is located, and the ZIP Code of the site location.

Block 3: Fill in the dollar amount requested in the proposed mortgage, or the annual amount of rental assistance requested.

Block 4: Fill in the number of apartment units proposed, such as "40 units." For hospital projects or nursing homes, fill in the number of beds proposed, such as "100 beds."

Block 5: Fill in the section of the Housing Act under which the application is filed.

Block 7: Definitions of all those who are considered principals and affiliates are given above in the section titled "Who Must Sign and File...."

Block 8: Beside the name of each principal, fill in the role that each will perform. The following are possible roles that the principals may perform: Sponsor, Owner, Prime Contractor, Turnkey Developer, Managing Agent, Packager, Consultant, General Partner, Limited Partner (include percentage), Executive Officer, Director, Trustee, Major Stockholder, or Nursing Home Administrator. Beside the name of each affiliate, write the name of the person or firm of affiliation, such as "Affiliate of Smith Construction Co."

Block 9: Fill in the percentage of ownership in the proposed project that each principal is expected to have. Also specify if the participant is a general or limited partner. Beside the name of those parties who will not be owners, write "None."

Block 10: Fill in the Social Security Number or IRS employer number of every party listed, including affiliates.

Instructions for Completing Schedule A:

Be sure that Schedule A is filled-in completely, accurately and the certification is properly dated and signed, because it will serve as a legal record of your previous experience. All Multifamily Housing projects involving HUD/FmHA, and State and local Housing Finance Agencies in which you have previously participated **must** be listed. Applicants are reminded that previous participation pertains to the individual principal within an entity as well as the entity itself. A newly formed company may not have previous participation, but the principals within the company may have had extensive participation and disclosure of that activity is required. To avoid duplication of disclosure, list the project and then the entities or individuals involved in that project. You may use the name or a number code to denote the entity or individual that participated. The number code can then be used in column 3 to denote role.

Column 2 List the project or contract identification of each previous project. **All previous projects must be included on your certification cannot be processed.** Include the name of all projects, the cities in which they are located and the government agency (HUD, USDA-FmHA or State or local housing finance agency) that was involved. At the end of your list of projects, draw a straight line across the page to separate your record of projects from that of others signing this form who have a different record to report.

Column 3 List the role(s) of your participation, dates participated, and if fee or identity of interest with owners.

Column 4 Indicate the current status of the loan. Except for current loans, the date associated with the status is required. Loans under a workout arrangement are considered as signed. An explanation of the circumstances surrounding the status is required for all non-current loans.

Column 5 Explain any project defaults during your participation.

Column 6 Enter the latest Management and/or Physical Inspection Review rating. If either of the ratings are below average, the report issued by HUD is required to be submitted along with the applicant's explanation of the circumstances surrounding the rating.

No Previous Record: Even if you have never participated in a HUD project before, you must complete form HUD-2530. If you have no record of previous projects to list, fill in your name in column 1 of Schedule A, and write across the form by your name – "No previous participation, first experience."

Master List System: If you expect to file this form frequently and you have a long list of previous projects to report on Schedule A, you should consider filing a Master List. By doing so, you will avoid having to list all your previous projects each time you file a new application.

To make a Master List, use form HUD-2530. On page 1, in block 1, enter (in capital letters) the words "Master List." In blocks 2 through 6 enter in "N.A." meaning Not Applicable. Complete blocks 7 through 10.

In the box below the statement of certification, fill in the names of all parties who wish to file a Master List together (type or print neatly). Beside each name, every party must sign the form. In the box titled "Proposed Role," fill in "N.A." Also, fill in the date you sign the form

and provide a telephone number where you can be reached during the day. No determinations will be made on these certificates.

File one copy of the Master List with each HUD Office where you do business and mail one copy to the following address:

**HUD-2530 Master List
Participation and Compliance
Division – Housing
U.S. Department of Housing and
Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410**

Once you have filed a Master List, you do not need to complete Schedule A when you submit form HUD-2530. Instead, write the name of the participant in column 1 of Schedule A and beside that write "See Master List on file." Also give the date that appears on the Master List that you submitted. Below that, report all changes and additions that have occurred since that date. Be sure to include any mortgage defaults, assignments or foreclosures not listed previously.

If you have withdrawn from a project since the date the Master List was filed, be sure to name the project. Give the project identification number, the month and year your participation began and/or ended.

Certification:

After you have completed all other parts of form HUD-2530, including Schedule A, read the Certification carefully. In the box below the statement of certification, fill in the name of all principals and affiliates (type or print neatly). Beside the name of each principal and affiliate, each party must sign the form, with the exception in some cases of individuals associated with a corporation (see "Exception for Corporations" in the section of the instructions titled "Who Must Sign and File form

HUD-2530"). Beside each signature, fill in the role of each party (the same as shown in block 8). In addition, each person who signs the form should fill in the date that he or she signs, as well as providing a telephone number where he or she can be reached during business hours. By providing a telephone number where you can be reached, you will help to prevent any possible delay caused by mailing and processing time in the event HUD has any questions.

If you cannot certify and sign the certification as it is printed because some statements do not correctly describe your record, use a pen and strike through those parts that differ with your record, then sign and certify to that remaining part which does describe you or your record.

Attach a signed letter, note or an explanation of the items you have struck out on the certification and report the facts of your correct record. Item A(2)(e) relates to felony convictions within the past 10 years. If you have been convicted of a felony within 10 years, strike out all of A(2)(e) on the certificate and attach your statement giving your explanation. A felony conviction will not necessarily cause your participation to be disapproved unless there is a criminal record or other evidence that your previous conduct or method of doing business has been such that your participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by law (42 U.S.C. 3535(d) and 24 C.F.R. 200.217) and by regulation at 24 CFR 200.210. This information is needed so that principals applying to participate in multifamily programs can become HUD-approved participants. The information you provide will enable HUD to evaluate your record with respect to established standards of performance, responsibility and eligibility. Without prior approval, a principal may not participate in a proposed or existing multifamily project. HUD uses this information to evaluate whether or not principals pose an unsatisfactory underwriting risk. The information is used to evaluate the potential principals and approve only individuals and organizations who will honor their legal, financial and contractual obligations.

Privacy Act Statement: The Housing and Community Development Act of 1987, 42 U.S.C. 3543 requires persons applying for a Federally-insured or guaranteed loan to furnish his/her Social Security Number (SSN). HUD must have your SSN for identification of your records. HUD may use your SSN for automated processing of your records and to make requests for information about you and your previous records with other public agencies and private sector sources. HUD may disclose certain information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law. You must provide all of the information requested in this application, including your SSN.

Public reporting burden for this collection of information is estimated to average 1 hour 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 agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

A response is mandatory. Failure to provide any of the information will result in your disapproval for participation in this HUD program.

PART 3

SECTION 3

**ITEM 11
REFERENCES**

REFERENCES

COMPANY NAME: _____

CONTACT: _____

PHONE NUMBER: _____

PLEASE LIST AT LEAST THREE (3) REFERENCES OF CURRENT CUSTOMERS WHO CAN VERIFY THE QUALITY OF SERVICES PERFORMED BY YOUR COMPANY; INCLUDE COMPANY NAME, ADDRESS, CONTACT PERSON AND TELEPHONE NUMBER:

1. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
PHONE: _____

2. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
PHONE: _____

3. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
PHONE: _____

PART 3

SECTION 3

**ITEM 12
DESIGNATION OF COMPLIANCE OFFICER / EEO**

**DESIGNATION OF COMPLIANCE OFFICER/
EQUAL EMPLOYMENT OPPORTUNITY**

Your Company
Street Address
City State Zip Code

Attention: All Employees

Mr./Ms. _____ has been appointed the Affirmative Action Compliance Officer, under the direct supervision of _____ for the _____.

He/She will handle all complaints which allege discrimination because of race, creed, color or national origin ancestry, marital status, political affiliation, liability for service in the armed forces of the United States or physical/mental handicap (except to the extent that such disability prevents the applicant from performing the tasks related to his/her occupation, profession, office or craft). He/She will also handle all compliance situations relative to the Housing Authority of the City of Newark's Affirmative Action Program.

This company has pledged to abide by the provisions of the Civil Rights Act of 1964 and the current Executive Order relating to Equal Employment Opportunity.

Mr./Ms. J. _____ Doe can be reached by telephone at _____. His/Her office address is at _____.

President/Director

Job Site

c: Office of Affirmative Action

PART 3

SECTION 3

**ITEM 13
AFFIRMATIVE ACTION COMPLIANCE NOTICE**

AFFIRMATIVE ACTION COMPLIANCE NOTICE
N.J.S.A. 10:5-31 and N.J.A.C. 17:27

GOODS AND SERVICES CONTRACTS
(INCLUDING PROFESSIONAL SERVICES)

This form is a summary of the successful respondent's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

The successful respondent shall submit to the public agency, after notification of award but prior to execution of this contract, one of the following three documents as forms of evidence:

- (a) A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);

OR

- (b) A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;

OR

- (c) A photocopy of an Employee Information Report (Form AA302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

The successful vendor may obtain the Affirmative Action Employee Information Report (AA302) from the contracting unit during normal business hours.

The successful vendor(s) must submit the copies of the AA302 Report to the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts (Division). The Public Agency copy is submitted to the public agency, and the vendor copy is retained by the vendor.

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 and agrees to furnish the required forms of evidence.

The undersigned vendor further understands that his/her response shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

Date: _____

Respondent

Name

Title

Signature of Respondent

Certification

**CERTIFICATE OF EMPLOYEE INFORMATION REPORT
RENEWAL**

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of **15-APR-2005** to **15-APR-2008**

S A M P L E



John H. Lawrence

State Treasurer

PART 3

SECTION 3

ITEM 14

STATEMENT OF COMPLIANCE BY ALL CONTRACTORS

AFFIRMATIVE ACTION PROGRAM

1. CONTRACTOR'S OBLIGATION. To be a responsive respondent, the contractor/respondent must submit the statements included herewith that sets forth the minimum Affirmative Action requirements of the Newark Housing Authority.

At a minimum, the contractor (and/or relevant subcontractors) shall submit with his proposal the following documentation explicated in detail below upon submitting a proposal for any particular materials, supplies or services:

- A. Certificate of compliance (narrative)
- B. Affidavit of MBE Participation
- C. Good faith in use of Section 3 business concern

The contractor shall not discriminate against employees and applicants for employment on the grounds of union membership, or because of race, color, religion, sex, or national origin.

The contractor (or relevant subcontractor) must also submit a signed narrative NHA "Statement of Compliance" with the Affirmative Action requirements pursuant to this document as well as all Federal, State, Municipal and Executive Order mandates.

2. SUBCONTRACTORS. Each prime contractor is responsible for the performance of his subcontractors for the implementation of the Affirmative Action Program during the performance of the contract. Whenever the contractor subcontracts a portion of services or materials, the subcontract shall bind the subcontractor to the obligations contained herein to the same extent as if he were the contractor.

NOTE: Contractor will not be paid any additional amount for minority participation or subcontractors.

STATEMENT OF COMPLIANCE BY ALL CONTRACTORS

AFFIRMATIVE ACTION PLAN

The employment policies and practices of the (YOUR COMPANY'S NAME) are to recruit and to hire employees without discrimination because of race, creed, color, or national origin, ancestry, marital status, political affiliation, liability for service in the armed forces of the United States or physical/mental handicap (except to the extent that such disability prevents the applicant from performing the tasks related to his/her occupation, profession, office or craft) and to treat them equally with respect to compensation and opportunities for advancement, including upgrading, promotion and transfer.

This company submits this plan to assure compliance with Executive Order #11246 and subsequent orders and more specifically the Housing Authority of the City of Newark's Affirmative Action Plan that may pertain to this program and to reaffirm its continued commitment to a program of equal employment opportunity and merit employment policies.

It agrees to assert leadership within the community and to put forth the maximum effort to achieve full employment and utilization of the capabilities and productivity to all who apply for employment on an equal basis.

This company further recognizes that the effective application of a policy of merit employment involves more than a policy statement and will, therefore, undertake a program of affirmative action to make known that equal employment opportunities are available on the basis of individual merit and to give notice to all persons seeking employment and to strive for advancement on this basis.

Address:

Respondent

Job Site:

Name

Date: _____

Title

(CORPORATE SEAL)

Signature of Respondent

PART 3

SECTION 3

ITEM 15
STATEMENT OF COMPLIANCE -WAGES

STATEMENT OF COMPLIANCE - WAGES

This is to certify that all persons employed by the undersigned will be paid full weekly wages earned, less permissible deductions for income taxes, Social Security, etc., and that no rebates have been or will be made either directly or indirectly to the undersigned from the full weekly wages earned by any person in its employ, and further that all employees will be paid as defined in Regulations, Part 3 (29 CFR) issued by the Secretary of Labor under the Copeland Act, as amended (43 Stat. 948, 63 Stat. 108, 72 Stat. 967; U.S.C. 276), and described on said payroll; that said payroll is correct and complete; that the wage rates contained in said payroll for laborers and mechanics pursuant to the contract under which such work was performed; and that the classification set forth for each laborer or mechanic conforms with the work he performed.

(CORPORATE SEAL)

Date: _____

Respondent

Name

Title

Signature of Respondent

PART 3

SECTION 3

**ITEM 16
FINANCIAL STATEMENT**

FINANCIAL STATEMENT

NAME OF FIRM

DATE

CURRENT ASSETS:

Cash	\$	_____
Joint Venture Account	\$	_____
Accounts Receivable	\$	_____
Notes Receivable	\$	_____
Accrued Interest on Notes	\$	_____
Deposits	\$	_____
Material and Prepaid Expense	\$	_____
Total Current Assets	\$	_____

FIXED ASSETS NET:

\$ _____

OTHER ASSETS:

\$ _____

TOTAL ASSETS :

\$ _____

CURRENT LIABILITIES :

Accounts Payable	\$	_____
Notes Payable	\$	_____
Accrued Interest on Notes	\$	_____
Provisions for Taxes	\$	_____
Accrued Salaries	\$	_____
Payroll Taxes	\$	_____
Other	\$	_____
Total Current Liabilities	\$	_____

OTHER LIABILITIES

\$ _____

CAPITAL:

Capital Stock	\$	_____
Authorized and Outstanding		
Shares, Par Value	\$	_____
Earned Surplus	\$	_____

TOTAL LIABILITIES & CAPITAL:

\$ _____

PART 3

SECTION 3

**ITEM 17
SECTION 3 OPPORTUNITY PLAN**



SECTION 3 PROGRAM

UTILIZATION PLAN PACKET

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs are directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

**JOB
TRAINING
OPPORTUNITIES
INDEPENDENCE**

Prepared by: OPERATION DIVISION



INSTRUCTIONS FOR COMPLETING THE SECTION 3 UTILIZATION PLAN

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs are directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

SCHEDULE D: All bidders/proposers are required to complete this form and submit it with their final bid/proposal package. The form must be signed and dated by the responsible party.

The remainder of the packet must be completed with the NHA Section 3 Coordinator once the contract is awarded. It is important to familiarize yourself with ALL the contents so that you are aware of what is required and the various options for compliance once the contract is executed.

The Section 3 Utilization Plan is to be completed for all construction and non-construction contracts. There are four (4) ways in which Section 3 can be fulfilled. They are listed in order of preference:

- 1) Subcontract or joint venture with a resident owned business and expend 25% (for construction contracts) or (3% for non-construction contracts) of the total subcontracting dollars allocated for this project. The business must be 51% or more owned by residents of the housing development, or other NHA public housing residents; or subcontractor/joint venture with a business that employs full-time, 30% or more of NHA residents, or low and very low income individuals within the HUD Metro Fair Marketing Rent areas of New Jersey (Essex, Morris, Sussex and Union counties), or
- 2) Direct hiring of NHA public housing residents and/or low and very low-income area residents to consist of thirty percent (30%) of the contractor's aggregate number of new hires. NHA has a complete database of properly screened residents who are available for employment, or
- 3) Incur the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth. Such training shall be determined after consultation with the Resident Services Department of the NHA.
- 4) Contribute to the NHA resident educational fund in an amount commensurate with your contract value on the requirement scales.

If a prime contractor is unable to satisfy the NHA resident hiring requirements per the above, the requirements may be satisfied through a qualified subcontractor that may be involved in the project and qualified to complete a percentage of the work.

For Option 1, if the contractor or subcontractor has identified a resident owned business or a business which employs 30% or more NHA public housing or area residents, this section is to be completed by indicating the percentage of total contract award and corresponding dollar amount that will be expended with such businesses in the spaces provided. (See steps for calculating Section 3 obligation to include Option 1)

PART A:

Step 1: Add the total amount of the awarded contracting dollars that you plan to allocate for subcontracting.

Step 2: Multiply the subcontracting dollars by 25% if this is a construction contract or 3% for non-construction. This is the amount you would place in the space provided in the utilization plan under Option 1. This will satisfy 100% of your obligation. If you choose a combination of options that include Option 1 proceed to Step 3.

Step 3: Multiply the percentage you chose *to comply with* Option 1 by the answer received in Step 2. For example, to use 50% of Option 1 *to comply with* your Section 3 obligation you would multiply the answer in step 2 by 50%.

Remember: You may use Option 1 to satisfy 100% of your Section 3 obligation or you may use a combination of options; nevertheless the sum of all percentages must equate 100% compliance.

PART B:

SAMPLE CONSTRUCTION WORKSHEET USING OPTION 1

Subcontracts:

Plumbing	\$100,000
Heating	\$100,000
Plumbing Supplier	\$100,000

Total Subcontracting Dollars: \$300,000 x 25% = \$75,000

Option 1 \$75,000 = 100% compliance

If you choose a combination of options (see the following example):

Contract Amount: \$400,000 x (5% = \$20,000) Note: Don't forget to add an additional \$10,000 if contract value is or becomes \$500,000 or more.)

Option 1	50% x \$75,000 = \$37,500
Option 2	20% x \$20,000 = \$ 4,000
Option 3	-0- x \$20,000 = \$ 0
Option 4	30% x \$20,000 = \$ 6,000

100% compliance \$47,500 (Total Section 3 Requirement)

If the prime contractor or subcontractor plans to hire NHA public housing or area residents to work for its company, Option 2 must be completed. Enter in the spaces provided the percentage of total contract award and corresponding dollar amount that will be expended toward the new hiring of resident(s), based on the requirement amounts reflected on the listed scales. Please refer to the amount that is listed in your contract to calculate your full requirement. Following is two examples to illustrate the calculation method:

Example 1 for construction contracts:

If your contract amount is \$100,000.00, the Section 3 dollar amount that must be expended is 5% or \$5,000.00. If the contract amount is \$1,000,000.00, the calculations are 5% plus \$10,000.00, the Section 3 requirement amount in this example will be \$60,000.00.

Example 2 for non-construction contracts:

If your contract amount is \$100,000.00, the Section 3 dollar amount that must be expended is 3% or \$3,000.00. If the contract amount is \$1,000,000.00 the calculations are 3% plus \$10,000.00, the Section 3 requirement amount in this example will be \$40,000.00.

If the entire requirement amount is to be expended on resident's salary, then 100% is to be inserted on the percent line along with the dollar amount. If the salary amount is less than 100% of the requirement, that amount must be inserted on the line and the remaining dollar amount must be expended through subcontracting/joint venturing with a resident owned business or a business that employs 30% or more residents, or placed into NHA Section 3 Resident Training/Educational Fund. In which case, the corresponding paragraph must be completed.

If the (sub)contractor has exhausted the first two (2) options, then the full amount of the prime contractor's Section 3 obligations will be placed into NHA Resident Training/Educational Fund, in which case Paragraph three (3) must be completed and Paragraphs one (1) and two (2) will contain zeroes in the percentage lines. Contractors utilizing the NHA Resident Educational Fund to meet its Section 3 obligation must indicate their preference for a one-time payment/invoice deduction or periodic invoice deductions.

LABOR SURVEY: The third section is to be completed by listing current staff to be used to complete the work bid upon.

- 1) indicate each category of employment for all phase of this contract;
- 2) the number of positions which will be needed in each category;
- 3) how many of those positions are to be filled with NON-Section 3 employees
 - (a) hiring goal - total number of positions to be filled by low-income

- area residents;
- (b) hiring goal - total number of positions to be filled by NHA public housing residents;
- (c) hiring goal – total positions to be filled.

Each prime contractor is required to attend a post-award meeting where contractual obligations related to Section 3 compliance will be explained and the Section 3 Utilization Plan will be finalized.

SECTION 3 UTILIZATION PLAN

Business Opportunities and Employment Training of the Housing Authority of the City of Newark Public Housing Residents and Low and Very Low Income Area Residents

Utilization Plan (Company Name _____)

LINE 1 Contract Amount \$ _____; this amount is the base you must use to calculate your Section 3 requirement. (Note: this does not apply to Option 1).

LINE 1b Total Subcontracting Dollars \$ _____; this amount is what you have allocated to subcontracting this project. It is also the base you must use to calculate Option 1 only.

LINE 2 After choosing option(s) below, add all figures and place on this line \$ _____. This is your total Section 3 requirement. (Note: This total may change in accordance with increases and decreases in contract value. All changes should be reflected on monthly Section 3 report.)

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.1 et seq. and the NHA Contract Resolutions implementing Section 3 requirements.

You may comply by choosing one or all options. Remember, your compliance must be equal to 100% or any remaining percentages and the corresponding dollar amount will be deducted from payouts and placed in the NHA Resident Training/Educational Fund account. An electronic worksheet to assist in completing the Utilization Plan can be found at www.newarkha.org.

☐ **Option 1: Subcontract with Section 3 Business Concern(s)**

LINE 3 The Contractor has chosen a NHA certified Section 3 resident owned business(es) or Section 3 business(s) to expend 25% (for construction) or 3% (for non-construction) of the total subcontracting dollars, to comply with (a) _____% , (b) \$ _____ of its Section 3 requirements covered under this Contract.

☐ **Option 2: Hire Section 3 residents/participants**

LINE 4 The Contractor has committed to employ thirty percent (30%) of its new hire from the NHA Section 3 database in order to comply with (a) _____%, (b) \$ _____, of its Section 3 requirements. The Contractor hereby submits this document to identify employment opportunities for the new hire of NHA public housing residents and low and very low-income area residents, during the term of the contract between the Contractor and NHA. The Contractor

affirms that the jobs identified shall be for meaningful employment that may or may not be related to the scope of services covered under this Contract. (See attached Labor Survey)

☐ **Option 3: Resident Training by Contractor**

LINE 5 The Contractor has a training/apprenticeship program in place and is willing to train and/or sponsor residents to comply with (a) _____% or (b)\$ _____ of its Section 3 requirements. Enter number of residents to be trained: (c)_____.

☐ **Option 4: Contribution**

LINE 6 The Contractor will contribute to the NHA Training/Educational Fund for resident training to comply with (a) _____% or (b)\$ _____ of its Section 3 requirements.

In the event I choose Option (4), I have the option to submit my check in the compliance amount of the start of contract date, or allow NHA to deduct payment from my draw requests. (Compliance amount is based upon the contract amount spelled out on the related scale.)

Contractor's Signature and Title:

Date: _____

Sworn & Subscribed Before Me

This _____ day of _____, _____.
Day Month Year

Signature of Notary Public

Date Commission Expires _____

SCHEDULE D

NAME OF PRIME CONTRACTOR:

TITLE OF IFB/RFP:_____

IFB/RFP#:_____

CONTRACT #:_____

THIS DOCUMENT IS REQUIRED FOR ALL CONSTRUCTION AND NON-CONSTRUCTION BID SUBMISSIONS

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.38 implementing Section 3 requirements. The contractor hereby submits this Schedule D as evidence of its good faith commitment to comply with all provisions of HUD Section 3 as implemented by the Newark Housing Authority.

The Contractor hereby agrees to complete and execute a Section 3 Utilization Plan, acceptable to Newark Housing Authority, upon contract award. The Contractor understands and further agrees that the issuance of a Notice to Proceed in connection with the work subject to the awarded contract shall be contingent upon execution of Contractor's Section 3 Utilization Plan.

The Contractor shall provide a status report identifying its progress in meeting the Section 3 goals established in the Utilization Plan on a monthly basis throughout the contract period. The monthly status report shall be submitted at the time payment is being requested. For any goal not met, the report shall identify any other economic opportunities, which the contractor has provided, or intend to provide in order to meet the Section 3 goals.

Acknowledged by:

(President or Authorized Officer)

Date:_____

Sworn & Subscribed Before Me

This _____ day of _____, _____.
Day Month Year

Signature of Notary Public

Date Commission Expires_____

Labor Survey:

NHA CONTRACT #		NHA CONTRACT Title:			
(1) Job Category	(2) Total Estimated Positions Needed	(3) # to be filled NON-Section 3	HIRING GOAL		
*Do not list current employees. Complete these items only if new employees are to be hired.			(a) Low-Income Area Residents	(b) Low-Income NHA Residents	(c) Total
Technical					
Office/Clerical					
Other					
SITE WORK: Laborer –					
MASONRY: Mason – Laborer –					
CARPENTRY: Carpenter – Laborer –					
ROOFING/SIDING: Roofer – Laborer –					
PAINTING: Painter – Laborer –					
FLOORING: Tile man – Laborer –					
PLUMBING: Plumber – Laborer –					
ELECTRICAL: Electrician – Laborer –					

HVAC: Journeyman – Laborer –					
OTHER:					

Attach another sheet if additional space is required.

SECTION 3 REQUIREMENT SCALE

CONSTRUCTION

VALUES

Contract Values			REQUIREMENTS AND CONTRIBUTION TO TRAINING FUND			
\$21,000	to	\$99,999	5%		\$1,050	\$5,000
\$100,000	to	\$199,999	5%		\$5,000	\$10,000
\$200,000	to	\$299,999	5%		\$10,000	\$15,000
\$300,000	to	\$399,999	5%		\$15,000	\$20,000
\$400,000	to	\$499,999	5%		\$20,000	\$25,000
\$500,000	to	\$999,999	5%	+	\$10,000	\$35,000
\$1,000,000	to	\$1,999,999	5%	+	\$10,000	\$60,000
\$2,000,000	to	\$2,999,999	5%	+	\$10,000	\$110,000
\$3,000,000	to	\$3,999,999	5%	+	\$10,000	\$160,000
\$4,000,000	to	\$4,999,999	5%	+	\$10,000	\$210,000
						\$260,000

Five percent (5%) plus \$10,000 will be applied to each contract of \$500,000.00 dollars or more for the purpose of calculating requirement values.

SECTION 3 REQUIREMENT SCALE

NON-CONSTRUCTION

VALUES

Contract Values			REQUIREMENTS AND CONTRIBUTION TO TRAINING FUND			
\$21,000	to	\$99,999	3%		\$630	\$3,000
\$100,000	to	\$199,999	3%		\$3,000	\$6,000
\$200,000	to	\$299,999	3%		\$6,000	\$9,000
\$300,000	to	\$399,999	3%		\$9,000	\$12,000
\$400,000	to	\$499,999	3%		\$12,000	\$15,000
\$500,000	to	\$999,999	3%	+	\$10,000	\$25,000
\$1,000,000	to	\$1,999,999	3%	+	\$10,000	\$40,000
\$2,000,000	to	\$2,999,999	3%	+	\$10,000	\$60,000
\$3,000,000	to	\$3,999,999	3%	+	\$10,000	\$90,000
\$4,000,000	to	\$4,999,999	3%	+	\$10,000	\$130,000
						\$160,000

Three percent (3%) plus \$10,000 will be applied to each contract of \$500,000.00 dollars or more for the purpose of calculating requirement values.

FY 2011 Income Limits Summary

Newark, NJ HUD Metro FMR Area										
FY 2011 Income Limit Area	<u>Median Income</u>	FY 2011 Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
		<u>Very Low (50%) Income Limits</u>	\$31,350	\$35,800	\$40,300	\$44,750	\$48,350	\$51,950	\$55,500	\$59,100
Newark, NJ HUD Metro FMR Area	\$89,500	<u>Extremely Low (30%) Income Limits</u>	\$18,800	\$21,500	\$24,200	\$26,850	\$29,000	\$31,150	\$33,300	\$35,450
		<u>Low (80%) Income Limits</u>	\$44,950	\$51,400	\$57,800	\$64,200	\$69,350	\$74,500	\$79,650	\$84,750

The Newark, NJ HUD Metro FMR Area contains the following areas: Essex County, NJ; Morris County, NJ; Sussex County, NJ; and Union County, NJ.

PART 3

SECTION 3

ITEM 18
GENERAL CONDITIONS FOR NON-CONSTRUCTION
(HUD FORM 5370-C)

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. 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.**

~~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.

- (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 thereof 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 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 therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

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

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

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

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

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

22. Procurement of Recovered Materials

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

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work) Office of Labor Relations

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
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-5370C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 968.105) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$100,000 – use Sections I and II.

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

1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
 - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the industry; and
 - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
 - (i) Name, address and Social Security Number;
 - (ii) Correct work classification or classifications;
 - (iii) Hourly rate or rates of monetary wages paid;
 - (iv) Rate or rates of any fringe benefits provided;
 - (v) Number of daily and weekly hours worked;
 - (vi) Gross wages earned;
 - (vii) Any deductions made; and
 - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
 - ① A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice;

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

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).

- ① A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the

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

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

6. Contract Work Hours and Safety Standards Act

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

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

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

(c) Withholding for unpaid wages and liquidated damages.

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

PART 3

SECTION 3

ITEM 19
INSTRUCTIONS TO OFFERORS NON-CONSTRUCTION
(HUD FORM 5369-B)

Instructions to Offerors Non-Construction



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:]

PART 3

SECTION 3

**ITEM 20
EVALUATION AND SELECTION CRITERIA**

EVALUATION FORM

Description of Work: **MAJOR REPAIRS AND MAINTENANCE OF ELEVATORS AT VARIOUS RESIDENTIAL AND ADMINISTRATIVE SITES ON AN AS-NEEDED ON-CALL BASIS**
11-S-033

FIRM NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP CD: _____

TELEPHONE #: _____

FACSIMILE #: _____

FEDERAL EMPLOYEE IDENTIFICATION NUMBER: _____

CONTACT PERSON: _____

SELECTION CRITERIA	POINTS	SCORE
QUALIFICATIONS & RELEVANT EXPERIENCE • Experience with repair, maintenance and management of similar projects • Experience with obtaining funding from non-governmental entities • General qualifications	30.00%	
NHA'S AFFIRMATIVE ACTION • Commitment to Affirmative Action and Minority Business Enterprises • Active Affirmative Action Program, hiring practices, minorities in upper management positions and/or minority ownership • Utilization of minority owned business as subcontractors or Joint Venture partners • Proposal for surpassing Section 3 requirements • Track record for meeting Section 3 requirements	10.00%	
CAPACITY AND ABILITY TO MEET NHA REQUIREMENTS • Ability to furnish all necessary labor, material, equipment and other incidental items for the complete maintenance and repair of all elevators owned and operated by NHA • Timely maintenance and repair of NHA elevators – as directed by NHA • Adhere to all requested NHA procedures and contract maintenance requests issued by NHA • Adhere to all wage requirements as advised by NHA	30.00%	
QUALITY ASSURANCE PLAN/PERFORMANCE OF CONTRACT DELIVERABLES • Statement of Respondent's Qualifications • Financial stability • Description of Scope of Services to be performed • Corporate organizational structure • Licenses, professional organizations and membership of organization • Resumes of key personnel	15.00%	

QUALITY OF REFERENCES - Financial institutions, governmental entities, former clients, etc. (NHA may not be used as a reference) - Recent similar experience/similar project	15.00%	
OVERALL SCORE	100.00%	

Evaluated by: _____