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QUALIFICATIONS BASED - REQUEST FOR PROPOSAL

DEVELOPMENT PARTNER TO REDEVELOP THE FORMER JAMES M. BAXTER TERRACE SITE

10-S-081

PART I of III

SCOPE OF SERVICES

CONTRACTS DIVISION

**SUBMISSION DATE
MAY 6, 2010
BY 3:00PM**

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**NEWARK HOUSING AUTHORITY
500 BROAD STREET
NEWARK, NEW JERSEY 07102**

**QUALIFICATIONS BASED -REQUEST FOR PROPOSAL
DEVELOPMENT PARTNER TO REDEVELOP
THE FORMER JAMES M. BAXTER TERRACE SITE**

10-S-081

The Newark Housing Authority (NHA) is soliciting proposals/qualifications from interested Development Partners, to assist in the redevelopment of the former Baxter Terrace public housing community site into a new mixed-income community offering rental and for-sale housing, commercial/retail space and green areas.

The selected Development Partner will be required to work closely with the NHA during and beyond this redevelopment effort. The NHA may conduct separate interviews with each respondent to discuss the respondent's professional qualifications and approach to the tasks. The full scope of service is included in this QBRFP.

All proposals submitted in response to this Qualifications Based Request for DEVELOPMENT PARTNERS TO REDEVELOP THE JAMES M. BAXTER TERRACE SITE must comply with the requirements of this proposal as set forth herein.

Interested persons are invited to submit a qualifications package that is descriptive of how they will respond to the scope of services of the Development Partner. Evaluation criteria are included in the QB-RFP. A copy of QB-RFP- describing the scope of work requirements, qualifications package checklist and evaluation criteria may be requested from the Contracts Division at 500 Broad Street, Newark, New Jersey 07102 (973) 273-6526 or fax request to (973) 273-6549.

There is no charge for the QBRFP; however a color copy of the visions for the sites, the Capital Fund Program Recovery Competition Grant guidelines as described in this QBRFP, is available at a cost of \$100.00 per CD. Please make certified checks/cashier's checks/money orders payable to the Newark Housing Authority.

An informational conference is scheduled for Tuesday April 13, 2010 at 10:00am at the Authority's Offices located at 500 Broad Street, Newark, New Jersey 07102 in the Executive Conference Room.

RFP responses shall be submitted on or before 3:00 p.m. on Thursday May 6, 2010. All packages must be clearly marked as ATTN: CONTRACTS DIVISION 10-S-081 QUALIFICATIONS BASED REQUEST FOR PROPOSAL DEVELOPMENT PARTNERS TO REDEVELOP THE FORMER JAMES M BAXTER TERRACE SITE.

One CD and Ten (10) copies of the response package are to be addressed to:

Newark Housing Authority
CONTRACTS DIVISION
500 Broad Street, 5th floor
Newark, New Jersey 07102

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 NHA reserves the right to accept any and all responses, or to waive any informalities on the qualifications and the right to reject qualifications. No response shall be withdrawn for a period of one hundred and twenty (120) days subsequent to the due date of the response, without the consent of the NHA.

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

RFP INFORMATION AT A GLANCE

NHA CONTACT PERSON	A. KEVIN MEDLIN Telephone: 973-273-6526 Email: kmedlin@newarkha.org
PRE-PROPOSAL CONFERENCE	APRIL 13, 2010 10:00 A.M. EXECUTIVE CONFERENCE ROOM 500 Broad Street, Newark, NJ 07102
DUE DATE FOR QUESTIONS:	Questions related to RFP opportunities due, in writing, to NHA by April 20, 2010 by 10:00 a.m.
RELEASE OF ANY REQUIRED ADDENDA	Answers to written questions distributed by NHA by April 23, 2010.
HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL SUBMITTAL	1. As instructed within Section 5.0 of the RFP/Q document, submit one original, 9 "hard copies" and one CD/Disk of your proposal to the NHA Contracts & Procurement Division office; 2. As instructed within Section 2.3, any submissions not including the Non-Curable Items will be rejected.
PROPOSAL SUBMITAL RETURN & DEADLINE	MAY 6, 2010 3 p.m. Newark Housing Authority Contracts & Procurement Division 500 Broad Street, 5th Floor Newark, NJ 07102 The proposal must be received in-hand and time-stamped by the NHA by no later than 3:00 p.m. on this date.

SECTION 1.0 INTRODUCTION

The Housing Authority of the City of Newark 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, the NHA is the largest provider of affordable housing in the State of New Jersey.

SECTION 2.0 GENERAL INFORMATION

NHA'S RESERVATION OF RIGHTS

- The NHA reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by the NHA to be in its best interests.
- The NHA reserves the right not to award a contract pursuant to this RFP.
- The NHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 10 days written notice to the successful proposer(s).
- The NHA reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP
- The NHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of 120 days subsequent to the deadline for receiving proposals without the written consent of the NHA Director of Procurement & Contracts.
- The NHA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- The NHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- The NHA shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.

2.2 RESPONDENT'S RESPONSIBILITIES – CONTACT WITH THE NHA

It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP/Q process to the designated Contract Coordinator, **A. Kevin Medlin** 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/Q. Failure to abide by this requirement may be cause for the NHA to not consider a proposal submittal received from any proposer who may 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 proposal; 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-consultants 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 proposal documents, or if applicable, the respondent acknowledges same pursuant to NJSA 40A:11-23.2e

Each proposal form must give the full business address, business phone, fax, e-mail (if available), the contact person of the respondent, and be signed by an authorized representative as follows:

Partnerships 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.

Corporations must be signed in the legal name of the corporation, followed by the name of the State in which incorporated and must contain the signature and designation of the president, secretary or other person authorized to bind the corporation in the matter.

Sole-proprietorship shall be signed by the proprietor.

When requested, satisfactory evidence of the authority of the officer signing shall be furnished.

2.4 PROOF OF BUSINESS REGISTRATION

N.J.S.A. 52:32-44 requires that each respondent submit proof of business registration prior to the 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/nibgs 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-consultants that knowingly provide goods or perform services for a respondent fulfilling this contract: The respondent shall provide written notice to its sub-consultants and suppliers to submit proof of business registration to the respondent. If the proposal includes the use of named sub-consultants, the Business Registration Certificates for those sub-consultants must be submitted prior to the contract award. If the selected respondent uses sub-consultants not part of the submission, prior to receipt of final payment from a contracting agency, the awardee must submit to the Newark Housing Authority an accurate list of all sub-consultants 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-consultants 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-consultants or supplier who provides false business registration information or post award, fails to provide proof of business registration for added sub-consultants 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 PROPOSALS

Proposals may be rejected for any of the following reasons:

1. Any non-curable defects pursuant to N.J.S.A. 40A: 11-23.2
2. All proposals pursuant to N.J.S.A. 40A: 11-13.2;
3. If more than one proposal is received from an individual, firm or partnership, corporation or association under the same name;
4. Multiple proposals from an agent representing competing respondents;
5. The proposal is inappropriately unbalanced;
6. The respondent is determined to possess, pursuant to N.J.S.A. 40A: 11-4b, Prior Negative Experience; or
7. If the successful respondent fails to enter into a contract within 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, the NHA may accept the proposal of the next highest scored responsible respondent. (N.J.S.A. 40A: 11-24b)

A rejected proposal shall be **DEEMED** as **NO PROPOSAL**, and the proposal shall be returned to the respondent.

2.6 METHOD OF CONTRACT AWARD

1. 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 proposal shall be subject to the availability and appropriation of sufficient funds annually.
2. The form of contract shall be submitted by the NHA to the successful respondent. Terms of the specifications/proposal package prevail. Respondent exceptions must be formally accepted by the NHA.

2.7 PROTESTS

The NHA's policy for Protests stipulates, "Any protest against a solicitation must be received before the due date for the receipt of bids or proposals, and any protest against an award of a contract must be received within five calendar days after the award of a contract, or the protest shall not be considered. All protest shall be in writing, submitted to the Contracts Division, who shall issue a written decision on the matter." The Contracts Division may, after concurrence of the Chief Legal Officer and with approval of

the Executive Director, at his or her discretion, suspend the procurement pending resolution of the protest if warranted by the facts presented.

SECTION 3.0 INTENT AND SCOPE OF SERVICES

3.1 INTENT OF THE REQUEST FOR PROPOSAL

The Housing Authority of the City of Newark is seeking a Development Partner to assist it in executing its plans for the redevelopment of the former James M. Baxter Terrace Public Housing community. Baxter Terrace is bound by Orange Street on the north, Boyd Street/Summit Street on the east, Sussex Avenue on the south and Nesbitt Street on the west. The site is also known as Block 2833 Lot 1, Block 2833 Lot 24 and Block 2854 Lot 1. It is approximately 14 acres and was the former site of the Baxter Terrace public housing community which consisted of 21 buildings containing 502 rental units as well as several ancillary buildings.

The financing for this new development will be governed by U.S. Department of Housing and Urban Development guidelines as outlined in the Mixed Finance Guidebook and as codified in CFR 941.

3.2 GENERAL BACKGROUND INFORMATION

Current Site Conditions

On August 28, 2008 the Newark Housing Authority ("NHA") received authorization from the U. S. Department of Housing and Urban Development (HUD) to demolish the former Baxter Terrace public housing community in two phases. The NHA has begun demolition of the first phase which extends from James Street south to Sussex Avenue. More specifically, demolition activities currently include the demolition of five (5) dwelling buildings containing 155 dwelling units and four (4) non-dwelling buildings. Demolition of this phase is expected to be complete in August, 2010.

A preliminary assessment of the site indicates that the presence of two, 12,000 gallon -out-of-service and abandoned-in-place fuel oil UST below the former Central Maintenance Building/Central Heating Plant. There appears to have been operating incinerators with the disposal of ash on the site. There also appears to be the presence of historic fill material. Historically there were four gasoline service stations, a dry cleaning operation, sheet metal facility and automobile repair facility on site. Prior to the construction of Baxter Terrace, the area had dense urban development with a traditional urban street grid. Thus, there is a high probability of additional underground tanks and foundations.

The second phase involves the demolition of 15 dwelling buildings containing 411 dwelling units and one (1) non dwelling building. All residents have been relocated and the NHA has removed all fire escapes, boarded the windows and fenced in the property. It is the NHA's goal to demolish this site in 2011.

James M. Baxter Terrace Development Plan

The NHA proposes to select a Development Partner to assist it in executing the development plans for Phase I known as Baxter Park South and more fully described below and to refine and execute its plans for Phase II.

Upon completion this development will be reconnected to the urban street grid that will open onto a park surrounded by a new housing community containing a total of approximately 341 housing units with 534 parking spaces. The housing will be a combination of town homes, maisonettes, stacked town homes, mid-rise and high-rise buildings. The houses will be both

rental and for-sale. The housing developed along Orange Street will have ground floor retail/commercial space. To the extent possible the NHA envisions that this development will contain one third very low-income housing, one third moderate or affordable income housing and one third market rate housing.

This will be the first “green” community in the city of Newark that employs green building designs and construction practices. Development Partners will be expected to employ the best practices with regard to siting and land use; indoor air quality; building durability; energy efficiency; resource efficiency; water conservation and operations & maintenance.

The NHA retained the services of an urban design firm to plan the design concepts for this new neighborhood. It then retained the services of Comito and Associates to develop the site plan for the first phase known as Baxter Park South.

Baxter Park South

Baxter Park South is being developed on the southern 4.89 acre portion of the former Baxter Terrace public housing community that extends from James Street south to Sussex Avenue. A small triangular park bordered by two four story mid-rise building containing a total of 17,000 square feet of commercial space with three stories of rental units above will announce your entrance into the Baxter Park South community.

Twenty-five three story townhouse style rental buildings will ring a portion of a new linear park which will give you access to James Street. The landscape will be dotted with approximately four parking lots containing a total of 134 parking spaces which will provide convenient parking for the residents with on street parking being available for the retail customers and guests.

The NHA has submitted applications to the New Jersey Housing and Mortgage Finance Agency for construction and permanent financing. Additionally, Baxter Park South has been entered into the February round for federal low-income housing tax credits. In support of these applications the NHA has obtained preliminary site plan approval, a Payment-Lieu-of-Taxes Agreement with the City of Newark, a market study, commitment of Section 8 Project Based Vouchers for 27 units, and a commitment of operating subsidies for 20 ACC units. Additionally, the NHA was awarded a Capital Fund Recovery Competition Grant from the HUD in the amount of \$11,171,981 for provided additional green or sustainable features.

The NHA anticipates construction beginning on Baxter Park South or about September 18, 2010. The selected Development Partner will be expected to at a minimum retain the services of Comito & Associates to complete the contract documents and retain the services of a general contractor.

Baxter Park North/Baxter Park West

The NHA proposes to develop two additional mixed income communities on the northern portion of the former Baxter Terrace public housing community. This nearly 11 acre portion of the site is bordered by Orange Street on the north, Boyden Street on the east, James Street on the south and Nesbitt Street on the west. The NHA plans contemplate the creation of an additional 250+ units consisting of rental and for-sale homes. The buildings to be sited along Orange and Nesbitt Streets should be mid-rise buildings with ground floor retail space. A linear park should extend from James Street to an area just south of Orange Street and should be ringed with for-sale homes. The NHA proposes to work with the selected Development Partner to fine tune this plan.

Other Neighborhood Development

The redevelopment of the former Baxter Terrace will serve as the springboard for other development planned in the area. Newark Mayor Cory Booker's administration has created a number of initiatives to attract retail to Newark. Newark is showing strong signs of revitalization from public and private investment in the downtown district. The success of NJPAC and the Prudential Arena are catalyzing commercial and residential development.

The NHA, the City and the neighborhood stakeholders share a vision of the Broad Street Station District of which the former Baxter Terrace is a part, as a transit-oriented neighborhood with an appropriate combination of mixed-use, mixed income housing, retail, and well thought-out structured parking.

The City has engaged Development Partners to develop a seven (7) acre parcel of land bordered by the train tracks on the north extending south to Orange Street between Nesbitt Street on the west and Boyden Street on the east. The plan entails the creation of a 24 hour district with large scale retail.

The parking lot that borders the former Baxter Terrace complex on the east is slated for redevelopment into residential/commercial and structured parking. The New Jersey Institute of Technology has plans to develop along the Dr. Martin Luther King, Jr. corridor and St. Michael's Hospital also has plans to redevelop its hospital campus.

3.3 DEVELOPMENT PROCESS

The NHA proposes to select a Development Partner via this Qualifications Based Request for Proposals process. Respondents will be evaluated based upon their qualifications. The Development Partner that meets the minimum requirements will be given an opportunity to make an oral presentation of their qualifications and any recommended refinements of the NHA's proposed plans for the development of Baxter Park South and the redevelopment of the former James M. Baxter Terrace. The NHA will then select the Development Partner that best matches its needs.

Upon selection of the Development Partner, the NHA contemplates entering into a Development Agreement which details the Development Partner's responsibility as mutually agreed to by the parties. The Development Partner will be required to enter into a Development Agreement within forty-five (45) days following selection. The NHA reserves the right to negotiate with another Development Partner should negotiations with the selected Development Partner be delayed for any reason or the Agreement not be executed within that time period.

3.4 SCOPE OF SERVICES OF DEVELOPMENT PARTNERS

The selected Development Partners are expected to:

1. Demolish Phase II if needed.
2. Refine and develop Site Plans; prepare a final Site Plan supported by a market study analysis obtained by the Development Partner for both rental and ownership components of the redevelopment project; and obtain required zoning and development approvals from the City and other required jurisdictional entities.
3. Identify and quantify all development costs based on information provided by the NHA and an independent analysis by the Development Partner. All cost

estimates will be the sole and exclusive responsibility of the selected Development Partner.

4. Develop a financing and development plan and construction schedule; determine the probability and extent of any gap funding and the total development cost; identify and secure other public and/or private funding sources to close any funding gap; assemble financing packages; prepare necessary financing applications conduct all necessary negotiations with funding source providers; and provide all reasonable and necessary financial guaranties and assurances. Assume primary responsibility of identifying adequate project funding.
5. Based upon the approved development plan as prepared by the urban design professionals, the Development Partner will prepare schematic designs and drawings, preliminary designs and drawings, and construction drawings and specifications. Submit schematic drawings, preliminary drawings and construction documents for the entire project or the phase associated with your direct responsibility, including public improvements, to the NHA for review and approval; obtain required building permits.
6. Identify public improvements to be funded. Develop construction drawings and specifications for these improvements with the City of Newark. Execute a separate contract with the NHA, or the ownership entity, for construction of such improvements, as required.
7. Coordinate all development activities, including reporting and budgeting requirements with the NHA and assist the NHA as necessary with respect to all aspects of the project.
8. Develop and implement a Section 3 Area Resident Participation (ARP) employment program for employment of residents both in the planning and implementation aspects of redevelopment.
9. Bid and award construction contracts; cause and oversee construction in accordance with all applicable agreements and legal requirements, including all applicable HUD and Low-Income Housing Tax Credit deadlines; supervise construction work to ensure quality of workmanship, timely completion of work, and consistency with budget; and ensure that all required occupancy permits and any other approvals are obtained after construction completion to permit lease-up, safe and habitable occupancy.
10. Supervise other consultants and/or service providers in all tasks necessary to successfully implement the development plan for the new neighborhood.
11. Ensure compliance with all applicable federal, state and local rules and regulations.
12. Implement a home ownership, marketing, and counseling program.

3.5 ROLE OF THE NEWARK HOUSING AUTHORITY

The NHA established the Department of Asset Development and Preservation (“ADP”) in 2006 to expand the NHA’s inventory of mixed-income housing while returning a profit. The principals of this department are Ms. Karen McLane Torian, Chief Asset Development and Preservation

Officer, and Mr. Morris I. Warner, Assistant Chief Asset Development and Preservation Officer. They will oversee implementation of the Development site described in this document.

The NHA expects to be a financial partner in this endeavor. Moreover, the NHA proposes to contribute the value of the land through a ground lease and to lend a portion of its funding as its equity in this development. In certain limited circumstances, the NHA will consider a sale of its land. The NHA expects at a minimum to be reimbursed for services rendered, to receive a percentage of the developer's fee payable at any construction and/or permanent loan closing and residual receipts as a reasonable return on its investment that shall be negotiated with the selected Development Partner as part of the Development Agreement.

The NHA welcomes proposals that address the following issues:

- Management post revitalization
- Sharing of fees
- Ownership structures including the NHA and any NHA affiliate or instrumentality
- Green Design
- Treatment of development guarantees
- Other issues which the respondent might like to make part of its proposal

The NHA will make available operating subsidies for all public housing units. Properties will be subject to a HUD Declaration of Trust for a period of 40 years in return for such subsidies. Developer Partners should understand that these subsidies may not be used to pay off debt unless otherwise authorized by HUD.

3.6 OVERVIEW AND ROLE OF DEVELOPMENT PARTNERS

Each successful respondent will be expected to assemble and lead a team of professionals capable of managing every aspect of the process. The Development Partners' Team should consist of members with the capability of partnering with the NHA to develop mixed income/mixed financed housing communities that are integrated with and serve as catalysts for the revitalization of the surrounding community. The Development Partners' Team will be required to work closely with the NHA during and beyond this redevelopment effort.

The Team should at a minimum be comprised of a developer, and management or sales agent. The Development Partner will be required to continue to use the services of Comito & Associates to complete the construction documents for Baxter Park South. The Team shall be comprised of individuals with the necessary skills and experience to implement all aspects of the work as outlined below. All work is to be performed in accordance with professional standards, HUD regulations, criteria and requirements, as well as local codes, regulations, ordinances and statutes.

Development Partner will be required to obtain all pre-development funding from sources other than the NHA.

3.7 DEVELOPMENT PARTNER MINIMUM QUALIFICATIONS

The Development Partner must have demonstrated expertise in managing the development process for mixed-income/mixed-finance/mixed-use type projects located in urban settings. The Development Partner must be experienced with the integration of municipal, state and federal regulations and various real estate development programs. The Development Partner shall indicate to the NHA whether it is currently engaged or may be engaged in other mixed income/mixed finance projects or activities which would be in conflict or hinder its capabilities to perform specific tasks required in the development of the various sites.

In general, the Development Partner will be required to have at a minimum the following prerequisites:

1. Experience in developing and managing mixed-income/mixed-finance/mixed-use projects in accordance with HUD's mixed finance guidelines and in conformance with 24 CFR 941 , which consist of either rental or for sale housing or a combination of both, that is built to market rate standards acceptable to the NHA.
2. Experience with likely funding sources including HUD funding, HUD subsidies, low-income housing tax credits, state and local programs.
3. Financial wherewithal to own and manage projects of similar size and scope with a proven ability to maximize private sector participation in the financing and a demonstrated ability to bring projects in on time and on budget.
4. A superior management plan that addresses the needs of an urban mixed income site along with a willingness to collaborate and support human service and economic development activities benefiting the sites.
5. Meaningful strategy for complying with the NHA's and HUD/FHA's resident employment and training requirements with an ability to meet or surpass MBE/WBE goals consistent with the NHA's Section 3 and AA-EEO policies.

The Qualifications Based Request for Proposals as a contractual requirement shall specify that all work will be performed in accordance with professional standards, HUD/FHA regulations, requirements and criteria, state and local regulations, ordinances and statutes. The NHA will carefully monitor and audit performance to ensure compliance.

SECTION 4.0 PROPOSAL FORMAT

The purpose of the Proposal is to demonstrate the qualifications, service level, and cost for services, competency and capacity of the organizations seeking to become a broker/consultant for The Housing Authority of the City of Newark. The proposal should address all the points outlined here as required:

4.1 LETTER OF INTEREST:

This letter should include a listing of the Development Partners' Team members, the location of the principal place of business, the type of business entity (e.g., corporation, partnership), 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/Q.

4.2 NON-CURABLE DOCUMENTS:

Stockholders Disclosure Certification - N.J.S.A. 52:25-24.2 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 bid or accompanying the bid of said corporation or partnership, the bidders shall submit a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent or more of its stock of any class, or of all individual partners in the partnership who own a ten percent or greater interest therein.

Listing of sub-contractors and certification form – A signed listing of all sub-contractors to be used and completion of certification form.

Acknowledgement of Receipt of Addenda/Clarifications – A document provided by the contracting agent in the bid plans, specifications or bid proposal documents for the bidder to acknowledge the bidder's receipt of any notice, revisions, addenda or clarifications to the advertisement or proposal documents.

4.3 EXECUTIVE SUMMARY / INTRODUCTION:

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. The summary should include a brief description of the firm's organizational structure and resumes of key personnel expected to work on or provide technical assistance for this project, work plan, programmatic goals, and delivery methods.

4.4 QUALIFICATIONS STATEMENT:

The Development Partner must submit the following information relative to their Team's composition, qualifications and experience.

Team structure: Provide a Team organizational chart and a statement on the composition of the Team, including development entity, attorney, economic development specialist, and property/sales management company. The statement must set out the anticipated relationship of the Team members and a detailed description of the proposed staffing for the project by each Team member. Is should also indicate the level of experience working as a team.

Resumes Of Principals And Staff: Provide resumes of the principals and key staff, including the project manager, to be involved in transitioning the "vision" into reality. This information should specify their roles and their previous experience with various housing development efforts.

Housing Development Experience: For each Team member, a statement of previous development experience must be submitted. This information should list the project location, size, ownership structure, public programs utilized; income levels served (very low, moderate, market rate or mixed) development cost and current status i.e. under construction, occupied, etc.

Previous Participation Certification (HUD Form 2530) in an 8"x11" format, fully showing signatures for all principles and those with an equity portion of 10% or greater. Form included in Part II of this package.

Retail/Commercial Space Development and Management Experience: Describe the experience of the Team members in developing, marketing and managing commercial space. The statement should provide a planned approach for attracting and managing retail/commercial space.

Legal Experience: Describe the experience of the law firm and the key staff in structuring and negotiating complex real estate financing structures particularly with regard to any mixed financed development.

Housing Management Experience: Describe the experience of the proposed management company, including a list of all properties under management now or in the last five years including name, owner, location, type of site (i.e. senior, family, mixed population), type of construction, income and subsidy mix, number and size of units, and operating and mortgage status. If any management contract has been terminated within the last five years, show when and explain the reasons for the termination. Describe in detail the property/properties with management challenges similar to those contemplated in this commission.

References: Provide references for all key members of the Development Partners' Team such as the Development Partner, architect, managing and/or sales agent where similar services have been furnished. Please include the name, address, telephone number, contact person and a synopsis of the work performed for these clients.

4.8 WORK PLAN/PROJECT APPROACH:

Provide a description of the work plan proposed to carry out the major tasks needed to bring the proposed project to completion. It should provide a detailed outline of the approach and not simply reiterate the Scope of Work described in this RFP/Q.

4.9 FINANCIAL STATEMENT

Personal Financial Disclosure Statement: Provide a Personal Financial Disclosure Statement for each person who will serve as a principal in the development entity. This statement will be substantially equivalent to FHA Form 2417. Provide this information in a separate sealed envelope clearly marked CONFIDENTIAL INFORMATION. This material will be held in accordance with applicable state and federal statutes.

For the principals, partners and directors of the development entity, list all real estate (street address) in the City of Newark in which said individuals have an ownership interest.

Financial Statement: Provide a current financial statement of the development entity or in the case of a newly formed entity, of the general partners or corporate affiliates or members of the development entity, prepared by a Certified Public Accountant along with the most recent audit of such parties.

The statement should show assets, liabilities and net worth of the entity and a disclosure of any of the following:

- I. Current financial defaults of more than 60 days duration
- II. Mortgage assignment or workout arrangement
- III. Foreclosure and/or bankruptcy
- IV. Litigation relating to financing or construction of the project that is pending or which was adjudicated within the past 5 years with a finding against the developer
- V. Real estate tax delinquencies

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 the NHA.

4.10 OTHER REQUIRED SUBMISSION DOCUMENTS:

Each respondent is required to submit, in addition to those listed in items 4.1-4.9, the documents included in the *Submission Documents* package. These include:

- Checklist
- Evaluation Form
- Affirmative Action Compliance Notice
- Section 3 Requirements
- Affidavit of Non-Collusion
- Affidavit of Non-Default
- Drug Free Work Place Certification
- Debarment Statement – 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.
- 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 years.
- HUD Form 5369-C: Certifications and Representations of Offerors
- HUD Form 2530: Previous Participation Certification
- Business Registration Certificate – 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). If the proposal includes the use of named sub-consultants, the Business Registration Certificates for those sub-consultants must be submitted prior to contract award.

SECTION 5.0 GENERAL INSTRUCTIONS

Proposal Submission deadline is May 6, 2010. It is the respondent's responsibility that proposals are presented to the owner at the time and at the place designated. Proposals may be hand delivered or mailed; however, the owner disclaims any responsibility for proposals forwarded by regular or overnight mail. If the proposal is sent by express mail service, the designation above must also appear on the outside of the express mail envelope. Proposals received after the designated time and date will be returned unopened.

Respondents are asked to submit an original and nine copies, plus one (1) electronic version of the proposal on either a CD or disk, using a Word or PDF file addressed to NEWARK

HOUSING AUTHORITY - CONTRACTS DIVISION; bearing the name and address of the respondent written on the face of the package, and clearly marked "PROPOSAL" with the RFP/Q title and proposal #.

5.1 QUESTIONS

All questions and requests for information must be addressed in writing to Director of Procurement & Contracts, Shari Hamilton. The deadline for receipt of questions pertaining to this proposal will be **APRIL 20, 2010**. All communications pertaining to this RFP shall be addressed to Contracts Division, 500 Broad Street, 5th Floor, Newark, N.J. 07102 or by facsimile 973-273-6549.

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

5.2 INTERPRETATION AND ADDENDA:

The Respondent should rely only on representations, statements or explanations, contained in this RFP/Q, any documents that the Authority has provided the Respondent, which are referred to in this RFP/Q, and in such formal written addenda as are issued by the Authority prior to the Proposal Submission Deadline.

SECTION 6.0 EVALUATION AND SELECTION CRITERIA

All proposals will be evaluated through consideration of several evaluation factors. The Respondents will be scored on a one hundred (100) point scale. The “**Evaluation Committee**” will review and score Respondents’ proposals in accordance with the following evaluation criteria as set below.

SELECTION CRITERIA	SCORE
QUALIFICATIONS & RELEVANT EXPERIENCE Experience with design, construction and management of similar projects Experience with obtaining funding from non-governmental entities Experience developing mixed-use, mixed-income communities particularly using HUD's mixed finance guidelines and in accordance with 24 CFR 941 Experience in retail leasing and management General qualifications	40
PROJECT APPROACH Proposed financial and legal structure Proposed design and implementation Proposed sustainable or green elements Approach to project phasing	30
QUALITY OF REFERENCES Financial institutions, governmental entities, former clients Experience with layered financing Profile of respondent's portfolio Current development profile Recent experience obtaining comparable financing commitments	10
NHA'S AFFIRMATIVE ACTION Proposal for surpassing Section 3 requirements Track record for meeting Section 3 requirements	10
STRENGTH OF QUALIFICATION PRESENTATION Interview	10
OVERALL SCORE	100

After the Evaluation Committee has evaluated all the Proposals submitted in response to this RFP/Q, the NHA's Director of Procurement & Contracts may establish a competitive range. Those Respondents not within the competitive range will be notified. Those Respondents determined to be within the competitive range, unless otherwise indicated, may be required to participate in presentations/discussions and provide additional information as required by the NHA. The objective of the presentations is to answer questions, clarify issues, and provide additional information regarding the Respondent's proposal. Prior to any face-to-face interview, the NHA may require further information from a Respondent regarding its proposal and/or request that a Respondent provide other data as required by the NHA. However, please note that the NHA reserves the right to make its decision based solely on the submitted written proposals without any requests for formal presentations or discussions or additional information.

Following the presentations, the Evaluation Committee will evaluate and summarize their findings for each Respondent who participates in the presentations/discussions, and make a recommendation for contract award. 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).

Restrictions: All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on the NHA evaluation committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on the NHA evaluation committee.

SECTION 7.0 ADDITIONAL INFORMATION

7.1 INSURANCE REQUIREMENTS

Before commencing of services under this project, the Respondent 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 a 30-day cancellation clause and a brief description of the work to be performed. The Authority shall be named additionally insured in the Comprehensive General Liability Insurance policy.

- 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. Professional Liability Insurance covering claims made at any time prior, during, or subsequent to completion of the Respondent's services with a limit of not less than \$1,000,000 with a deductible not more than \$10,000.
- c. 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.
- d. Where an amendment to the policies is required as a result of a contract with the Authority, the amendment shall be made prior to the signing of said contract.

The Respondent shall require each of the sub-consultants 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-consultant's activities. Certificates of insurance are to be forwarded to the Authority upon receipt.

7.2 EQUAL EMPLOYMENT OPPORTUNITY, AFFIRMATIVE ACTION STATEMENT AND SECTION 3 CLAUSE

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 of evidence indicating:

1. An active Affirmative Action Program, hiring practices, minorities in upper management positions and/or minority ownership.

2. The utilization of minority owned businesses as subcontractors or Joint Venture partners.

3. 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 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).

4. MANDATORY AFFIRMATIVE ACTION CERTIFICATION (The following are mandatory requirements of this proposal and contract.)

For Goods and Services: 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.

7.3 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.

7.4 TRUTH IN CONTRACTING

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

- N.J.S.A. 2C:21-34, et seq. governs false claims and representations by bidders. It is a serious crime for the bidder to knowingly submit a false claim and/or knowingly make material misrepresentation.
- 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.

- N.J.S.A. 2C:27-11 provides that a bidder 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.

7.5 TERMINATION OF CONTRACT

1. 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, the 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 the NHA of any obligation for balances to the contractor of any sum or sums set forth in the contract. The NHA will pay only for goods and services accepted prior to termination.
2. Notwithstanding the above, the Respondent shall not be relieved of liability to the NHA for damages sustained by the owner by virtue of any breach of the contract by the Respondent and the NHA may withhold any payments to the Respondent for the purpose of compensation until such time as the exact amount of the damage due the NHA from the Respondent is determined.
3. The Respondent agrees to indemnify and hold the owner harmless from any liability to sub-consultants/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by the NHA under this provision.
4. In case of default by the Respondent, the NHA may procure the goods or services from other sources and hold the Respondent responsible for any excess cost.
5. 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, the NHA reserves the right to cancel the contract.
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 proposal/contract. Any change shall be approved by the 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 the NHA. The NHA may terminate the contract for convenience by providing 60 calendar days advanced notice to the Respondent.

7.6 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.

7.7 PROMPT PAYMENT ACT N.J.S.A. 2A:30A-1 et seq.

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 20% must be approved by action of the Board of Commissioners.



Executive Director
KEITH D. KINARD

Chairperson
MODIA BUTLER

Board of Commissioners
GLORIA CARTWRIGHT
LENIN CRUZ
ANGELLA PALMER
NANCY PEREZ
RASHARD CASEY

QUALIFICATIONS BASED - REQUEST FOR PROPOSAL

DEVELOPMENT PARTNER TO REDEVELOP THE FORMER JAMES M. BAXTER TERRACE SITE

10-S-081

PART II of III

STANDARD DOCUMENTS

CONTRACTS DIVISION

**SUBMISSION DATE
MAY 6, 2010
BY 3:00PM**

NEWARK HOUSING AUTHORITY

**DEVELOPMENT PARTNER TO REDEVELOP
THE FORMER JAMES M. BAXTER TERRACE SITE**

10-S-081

PART II

STANDARD DOCUMENTS

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PART II

SECTION 1

INSTRUCTIONS TO OFFERORS (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 II

SECTION 2

GENERAL CONDITIONS FOR NON-CONSTRUCTION (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. 3/31/2010)

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.

PART II

SECTION 3

24 CFR 85.36
(Code of Federal Regulations)

CODE OF FEDERAL REGULATIONS

Title 24, Volume 1

Revised as of April 1, 2009

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Page 509-515

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 85 ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO

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 subagreements. 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 a 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.

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(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

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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

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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).



Executive Director
KEITH D. KINARD

Chairperson
MODIA BUTLER

Board of Commissioners
GLORIA CARTWRIGHT
LENIN CRUZ
ANGELLA PALMER
NANCY PEREZ
RASHARD CASEY

QUALIFICATIONS BASED - REQUEST FOR PROPOSAL

DEVELOPMENT PARTNER TO REDEVELOP THE FORMER JAMES M. BAXTER TERRACE SITE

10-S-081

PART III of III

SUBMISSION DOCUMENTS

CONTRACTS DIVISION

**SUBMISSION DATE
MAY 6, 2010
BY 3:00PM**

CHECKLIST

(PLEASE CHECK OFF EACH ITEM)

MANDATORY SUBMITTAL REQUIREMENTS	YES	NO
CHECKLIST (COMPLETED)		
1. LETTER OF INTEREST		
2. NON-CURABLE ITEMS		
• Stockholder Disclosure Certification (<i>provided within</i>)		
• Listing of Sub-consultants and Certification Form (<i>provided within</i>)		
• Acknowledgement of Addenda/Clarifications (<i>provided within</i>)		
3. EXECUTIVE SUMMARY/INTRODUCTION		
4. QUALIFICATIONS STATEMENT		
5. ORGANIZATIONAL STRUCTURE		
6. EXPERIENCE		
7. REFERENCES		
8. WORK PLAN/PROJECT APPROACH		
9. FINANCIAL STATEMENT		
10. OTHER REQUIRED SUBMISSION DOCUMENTS		
• Evaluation form (<i>provided within</i>)		
• Cost Proposal (<i>provided within</i>)		
• Affirmative Action Documents (<i>provided within</i>)		
• Affidavit of Non-Collusion (<i>provided within</i>)		
• Affidavit of Non-Default (<i>provided within</i>)		
• Drug Free Work Place Certification (<i>provided within</i>)		
• Debarment Statement		
• Liens, Suits and Judgments		
• Copy of Joint Venture Agreement (<i>if applicable</i>)		
• Previous Participation Certification, HUD 2530 (<i>provided within</i>)		
• HUD Form 5369-C (<i>provided within</i>)		
• Business Registration Certificate(s) for Respondent Firm and all Named Sub-consultants (<i>sample provided – only those documents will be accepted</i>)		
• Section 3 Requirements		

EVALUATION FORM

Description of Work: **DEVELOPMENT PARTNER TO REDEVELOP THE FORMER JAMES M. BAXTER TERRACE SITE
10-S-081**

FIRM NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP CD: _____

TELEPHONE #: _____ FACSIMILE #: _____

FEDERAL EMPLOYEE
IDENTIFICATION NUMBER _____

CONTACT PERSON: _____

SELECTION CRITERIA	SCORE
QUALIFICATIONS & RELEVANT EXPERIENCE Experience with design, construction and management of similar projects Experience with obtaining funding from non-governmental entities Experience developing mixed-use, mixed-income communities particularly using HUD's mixed finance guidelines and in accordance with 24 CFR 941 Experience in retail leasing and management General qualifications	
PROJECT APPROACH Proposed financial and legal structure Proposed design and implementation Proposed sustainable or green elements Approach to project phasing	
QUALITY OF REFERENCES Financial institutions, governmental entities, former clients Experience with layered financing Profile of respondent's portfolio Current development profile Recent experience obtaining comparable financing commitments	
NHA'S AFFIRMATIVE ACTION Proposal for surpassing Section 3 requirements Track record for meeting Section 3 requirements Develop and implement a Section 3 Area Resident Participation employment program. Meaningful strategy for complying with the NHA's and HUD/FHA's resident employment and training requirements	
STRENGTH OF QUALIFICATION PRESENTATION Interview	
OVERALL SCORE	

Evaluated by: _____

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

STOCKHOLDER DISCLOSURE CERTIFICATION
This Statement Shall Be Included with Bid 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.

Stockholders:

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Name: _____

Name: _____

Home Address: _____

Home Address: _____

Sworn to and subscribed before me this
day

of _____, 2010

(Affiant)

(Print name & title of affiant)

Notary Public

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

SUB-CONSULTANT LISTING

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

All sub-consultants 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 sub-consultant shall also be provided with the bid. Specifically, the respondent shall include a listing of all relevant jobs performed by the sub-consultant within the past two (2) years.

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

_____ **The Respondent firm will not be using any subcontractors.**

THIS FORM TO BE SIGNED AND SUBMITTED BY THE RESPONDENT FIRM

Name of Lead Company

Signature

Name Printed

Title

Sworn to and subscribed before me this _____ day of _____, 2010

(CORPORATE SEAL)

Notary Public

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

SUB-CONSULTANT CERTIFICATION FORM

All sub-consultants 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 sub-consultant shall also be provided with the bid. 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-consultant been engaged in this particular field? ____ years.

Sub-consultant

Firm Name

Address

Contact Person

Telephone #

Facsimile #

Trade

State License #

THIS FORM TO BE SIGNED AND SUBMITTED BY THE SUB-CONSULTANT

Name of Lead Company

Signature

Name Printed

Title

Sworn to and subscribed before me this ____ day of _____, 2010

(CORPORATE SEAL)

Notary Public

Provide a list of relevant contracts (company/firm) completed by sub-consultants within the last two (2) years. **DO NOT INCLUDE WORK WITH THE HOUSING AUTHORITY OF THE CITY OF NEWARK.**

(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 | |

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

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA/CLARIFICATION

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

<u>Addendum/Clarification Number</u>	<u>Dated</u>	<u>Acknowledge Receipt (initial)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

No addenda/clarification was received:

Acknowledged for: _____
(Name of Respondent Firm)

By: _____
(Signature of Authorized Representative)

Name: _____
(Print or Type)

Title: _____

Date: _____

Sworn to and subscribed before me this ____ day of _____, 2010

Notary Public

****NOTE: THIS DOCUMENT MUST BE COMPLETED WHETHER OR NOT AN
ADDENDA/CLARIFICATION WAS ISSUED.**

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

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: TAX REGISTRATION TEST ACCOUNT	TRADE NAME: CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#: 970-097-382/500	SEQUENCE NUMBER: 0107330	
ADDRESS: 847 ROEBLING AVE TRENTON NJ 08611	ISSUANCE DATE: 07/14/04	
EFFECTIVE DATE: 01/01/01		
FORM-BRC(08-01)		

John S. Tully
Acting Director

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

**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 bidder's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

The successful bidder 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 bid 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.

COMPANY: _____ SIGNATURE: _____

PRINT NAME: _____ TITLE: _____

DATE: _____

STATE OF _____ :
COUNTY OF _____ : SS

That I am the party making the foregoing proposal or bid and that said party will comply with the requirements of the HUD Section 3 and Minority Business Enterprise Participation Programs of the Housing Authority of the City of Newark as provided in Section 21 of the Special Conditions and in the furtherance thereof, the party agrees to obtain at least thirty percent (30%) of the goods and services to be provided under this proposal or bid from qualified HUD Section 3 and minority business enterprises and that if awarded a contract the bidder intends to acquire the stated percentages of goods and service to be supplied hereunder as hereafter described from the following HUD Section 3/minority business enterprise:

Name, Address & Phone No. of Minority Business Enterprise	Percent of Bid Dollar Value	Product or Service
---	-----------------------------	--------------------

I understand that nothing herein obligates the Housing Authority of the City of Newark to approve of said Minority Business Enterprise as a supplier or subcontractor for the goods and services stated; and that the Authority may require this firm to substitute other suppliers or subcontractors in place of those specified. In addition, I understand that nothing herein gives any Minority Business Enterprise an enforceable right against the Housing Authority of the City of Newark.

SIGNATURE

TITLE

Sworn to and subscribed before me this day of ,2010

Notary Public

AFFIDAVIT OF NON-COLLUSION

STATE OF _____ :

COUNTY OF _____ :

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

1. That, as the party making the foregoing Bid, that such Bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not, in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantages against the Newark Housing Authority, or any person interested in the proposed contract; and that all statements in said Bid are true.
2. The bidder 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 or bidding on any public contract within the last three years. Such act or conviction does not automatically disqualify a bidder, 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 bidder on the basis of a lack of responsibility. If bidder has been convicted of any act prohibited by state or federal law involving collusion with respect to proposing or bidding on any public contract within the past three years, bidder should attach an explanation of the circumstances surrounding that conviction.

FIRM NAME

SIGNATURE

DATE

TITLE

Sworn to and subscribed before me this ____ day of _____, 2010

Notary Public

AFFIDAVIT OF NON-DEFAULT

STATE OF _____ :
COUNTY OF _____ : SS

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 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 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.)
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 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.

FIRM NAME

SIGNATURE

DATE

TITLE

Sworn to and subscribed before me this ____ day of _____, 2010

Notary Public

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.

FIRM NAME

SIGNATURE

DATE

TITLE

Sworn to and subscribed before me this _____ day of _____, 2010

Notary Public

CERTIFIED STATEMENT OF NON-DEBARMENT

**PROVIDE NOTARIZED STATEMENT ON
COMPANY LETTERHEAD**

**CERTIFIED STATEMENT
LIENS, SUITS, JUDGMENTS**

**PROVIDE NOTARIZED STATEMENT ON
COMPANY LETTERHEAD**

JOINT VENTURE AGREEMENT (IF APPLICABLE)

Previous Participation Certification, HUD 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. 9/30/2009)

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

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 may be, for approval to participate as a principal in the role and project listed above based upon my following previous participation record and this Certification.

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 further certify that:

1. Schedule A contains a listing of every assisted or insured project of HUD, USDA-FmHA and State and local government housing finance agencies in which I have been or am now a principal.

2. For the period beginning 10 years prior to the date of this certification, and except as shown by me on the certification.

a. 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;

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

c. 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;

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;

e. 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 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);

f. 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.

g. 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.

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.

4. 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 O and

USDA's Standard of Conduct in 7 C.F.R. Part O Subpart B.

5. 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.

6. To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any applicable civil rights laws.

7. 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.

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.

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 Principals' 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? If "Yes," explain			6. Last Mgmt. and/or Physical Inspctn Rating
				Yes	No		

Part II – For HUD Internal Processing Only

Received and checked by me for accuracy and completeness; recommend approval or transferral 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, non-profit 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 arms 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., refinance, 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 or 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 assigned. 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.

HUD Form 5369-C

Certifications and Representations of Offerors

Non-Construction Contract

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

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

- | | |
|---|---|
| ☐ Black Americans | ☐ Asian Pacific Americans |
| ☐ Hispanic Americans | ☐ Asian Indian Americans |
| ☐ Native Americans | ☐ Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

4. Organizational Conflicts of Interest Certification

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:
- (i) Award of the contract may result in an unfair competitive advantage;
 - (ii) The Contractor's objectivity in performing the contract work may be impaired; or
 - (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.
- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.
- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:



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.

Prepared by: OPERATION DIVISION





[INSERT DATE]

Contractor
Business Name
Address
City, State, Zip

Dear: [INSERT ADDRESSEE NAME]

Thank you for choosing to “*Do Business with NHA.*” As a recipient of funding provided by the Department of Housing and Urban Development the Newark Housing Authority is required to comply with the provisions of 24 C.F.R. 135 *Economic Opportunities for Low and Very Low Income Persons*, commonly known as Section 3. The obligations of Section 3 extend to contractors (and their subcontractors) who contract with NHA to provide construction and non-construction services. Each contractor is required to complete and execute a Utilization Plan demonstrating its commitment to comply with the provisions of Section 3.

The following is a list of voluntary efforts that can be undertaken to evidence compliance with Section 3:

- OPTION 1: Subcontract with Section 3 Business Concerns 25% (for construction) or 3% (for non-construction) of total award amount
- OPTION 2: Hire Section 3 residents/participants
(contact Section 3 Coordinator at 973-273-6697)
- OPTION 3: Resident training by Contractor
- OPTION 4: Contribute to the NHA Training/Educational fund

Please refer to the attached Section 3 Utilization Plan form and its instructions. In addition to completing this form, please describe in a narrative the efforts you plan to make or have already made in order to comply with the Section 3 requirements.

NHA has initiated a Section 3 Business Concern certification process. The certification process includes evaluation of contractors against HUD established Section 3 criteria. Those contractors that meet the criteria are certified as Section 3 Business Concerns and are included in a database published for your utilization in selecting sub-contractors if you are interested in Option 1.

NHA also has a database consisting of NHA residents who have been properly screened for training and employment opportunities if you are interested in Option 2.

The attached Labor Survey worksheet should be completed and will allow us to assist you as it relates to Option 2. It will also verify evidence of efforts that you may have already made in hiring Section 3 residents/participants.

Again, we thank you for choosing NHA. By awarding contracts to contractors, vendors, and suppliers, together we create employment and business opportunities for NHA residents and other qualified low and very low-income individuals, which make for an all around winning effort! Your immediate attention is greatly appreciated.

Sincerely,

Janet Abrahams
Chief of Operations

Shari Hamilton
Director of Procurement and Contracts

Attachments: Section 3 Utilization Plan w/instructions and worksheets
Contribution Sliding Scale (2 pages)
Definitions/2009 Income Limits Summary

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 reminder 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 will expend 25% (for construction contracts) or (3% for non-construction contracts) of the total contract award. 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 Metro Fair Marketing Rent areas of New Jersey (Essex, Morris, Sussex and Union counties). The list of certified Section 3 Business Concerns is provided in this packet, or
- 2) Direct hiring of NHA public housing residents and/or low and very low-income area residents, a complete list of NHA qualified residents will be provided at contract signing, or
- 3) Incur the cost of providing skilled training for residents in an amount that 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 a NHA resident educational fund in an amount commensurate with your contract value on the contribution scales on pages 12 and 13.

If a prime contractor is unable to satisfy the NHA resident hiring requirements per the above, the requirements may be satisfied through a qualified subcontractors that may be involved in the project or qualified to complete a percentage of the work from the NHA section (3) approved database.

In Option 1 (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 percent of total contract award and corresponding dollar amount that will be expended with such businesses in the spaces provided.

If the 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 contribution amounts reflected on pages 12 and 13. Please refer to the amount that is listed

in your contract to calculate your full contribution. 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 above \$1,000,000.00 the calculations is 5% plus \$10,000.00, the section (3) contribution 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 above \$1,000,000.00 the calculations is 3% plus \$10,000.00, the section (3) contribution amount in this example will be \$40,000.00.

If the entire contribution 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 contribution, 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 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. (Sub)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 currently filled;
 - (a) total number of positions that are filled;
 - (b) the number filled by NHA public housing residents;
 - (c) the number filled by area residents, excluding NHA residents.
- 4) Indicate your goal for the number of positions you intend to fill with:
 - (a) Section 3 Residents
 - (b) Low and Very low income area residents.

RESIDENT LIST: The final section is to be completed after the contract has been awarded; interviews have taken place and residents have been hired. The completed Section 3 Utilization Plan must be submitted to the Section 3 Coordinator and Procurement and Contracts Department.

Public housing residents are screened and skills assessed by the NHA. Each contractor is required to attend a post-award meeting where contractual obligations related to Section 3 compliance will 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

I. Utilization Plan

Contract Amount _____, this amount is the base you must use to calculate your section (3) contribution, please use charts on pages 12 and 13 to identify the contribution amount. Insert appropriate contribution amount here. \$ _____.

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

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

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 award, to comply with _____% , \$ _____ of its Section 3 requirements covered under this Contract.

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

The Contractor has committed to employ the following in order to comply with _____%, \$ _____, 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**

The Contractor has a training program in place and is willing to train (enter number) _____ residents to comply with _____% of its Section 3 requirements.

☐ **Option 4: Contribution**

The Contractor will contribute to the NHA Training/Educational Fund for resident training to comply with _____% or \$ _____ 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 pages 12 and 13.)

Contractor's Signature and Title:

Date: _____

Sworn & Subscribed Before Me

This _____ day of _____, _____.
Day Month Yeas

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) goal.

Acknowledged by:

(President or Authorized Officer)

Date:_____

Sworn & Subscribed Before Me

This _____ day of _____, _____.
Day Month Year

Signature of Notary Public

Date Commission Expires

III. Labor Survey:

IFB OR RFP #		IFB OR RFP TITLE					
(1) JOB TITLE	(2) NUMBER NEEDED	(3) NUMBER OF POSITIONS FILLED			HIRING GOAL		
		(a) Total	(b) LINHAR	(C) LIAR	(4) To Be Filled	(a) LINHAR	(b) LIAR

LINHAR = Low and Very Low-Income Newark Housing Authority Resident

LIAR = Low –Income Area Resident

IV. Resident List

Section 3 Resident Employee Information (Jobs to be filled)			
Job Title	LINHAR or LIAR Name	Address	Phone Number

LINHAR = Low and Very Low-Income Newark Housing Authority Resident
LIAR = Low-Income Area Resident

SECTION (3) CONTRIBUTION SCALE

CONSTRUCTION

VALUES

Contract Values			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
					\$210,000	\$260,000

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

SECTION (3) CONTRIBUTION SCALE

NON-CONSTRUCTION

VALUES

Contract Values			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	\$40,000
\$1,000,000	to	\$1,999,999	3%	+	\$10,000	\$40,000	\$60,000
\$2,000,000	to	\$2,999,999	3%	+	\$10,000	\$60,000	\$90,000
\$3,000,000	to	\$3,999,999	3%	+	\$10,000	\$90,000	\$130,000
\$4,000,000	to	\$4,999,999	3%	+	\$10,000	\$130,000	\$160,000

Five percent (3%) plus \$10,000 will be applied to each contract of \$5,000,000.00 dollars or more for the purpose of calculating contribution values.

FY 2009 Income Limits Summary

Newark, NJ HUD Metro FMR Area

FY 2009 Income Limit Area	<u>Median Income</u>	FY 2009 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>	\$30,650	\$35,050	\$39,400	\$43,800	\$47,300	\$50,800	\$54,300	\$57,800
Newark, NJ HUD Metro FMR Area	\$87,600	<u>Extremely Low (30%) Income Limits</u>	\$18,400	\$21,050	\$23,650	\$26,300	\$28,400	\$30,500	\$32,600	\$34,700
		<u>Low (80%) Income Limits</u>	\$44,800	\$51,200	\$57,600	\$64,000	\$69,100	\$74,250	\$79,350	\$84,500

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