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Oakland Housing Authority

November 30, 2020

Gentlemen/Ladies:

**SUBJECT: RFP #20-032 Recruiting Services**

The Housing Authority of the City of Oakland (the "Authority") invites proposals from experienced human resources recruiting firms.

**Proposals will be accepted online through EconomicEngine.com until 10:00 a.m., (Pacific Time), on January 7, 2021**. Proposals received after 10:00 a.m. on January 7, 2021, will be rejected without consideration.

Questions of a procedural nature may be directed to Jeanne Smith at (510) 587-2123.

We look forward to receiving your proposal.

Sincerely,

DocuSigned by:
Patricia Wells
722CF180EE194A1...
Patricia Wells
Executive Director

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Oakland Housing Authority

# REQUEST FOR PROPOSALS (RFP) # 20-032

## Recruitment Services

| | |
|---|---|
| RFP Issued: | November 30, 2020 |
| Questions Due | December 14, 2020 by 10:00AM (Pacific Time) |
| Email Questions To: | ccgs@oakha.org<br>(Indicate above RFP #20-032 Recruitment Services in "Subject") |
| Addendum Issued:<br>*(if applicable)* | December 21, 2020 by 10:00AM<br>(Posted on the Authority's website and Housing Agency Marketplace) |
| Proposal Due: | **January 7, 2021@ 10:00 AM**<br>(Pacific Time)<br>**Proposers MUST register with Housing Agency Marketplace in order to submit a proposal.** |

**Contract Compliance & General Services (CCGS) Department**
**Oakland Housing Authority (The Authority)**
**1619 Harrison Street, Oakland, CA 94612**
**e-mail: CCGS@oakha.org**

**Contact person for the above RFP:** Jeanne Smith, Contract Specialist
Email: JSmith@oakha.org/ 510-587-2123

# REQUEST FOR PROPOSALS (RFP) # 20-032

## RFP Recruitment Services

## TABLE OF CONTENTS


**1. General Information** ..... 4

1.1 RFP Introduction ..... 4
1.2 The Authority Reservation of Rights ..... 4
1.3 The Authority Information ..... 5

**2. Scope of Work** ..... 5

**3. Proposal Submission Requirements** ..... 6

3.1 Proposal Format ..... 6
A. Letter of Interest ..... 6
B. Demonstrated Experience and Past Performance ..... 7
C. Technical Capabilities ..... 7
D. Approach to Project ..... 7
E. Proposed Cost ..... 7
F. Required Forms ..... 8

3.2 Required Forms/Certifications ..... 8
A. Profile and Certification Form ..... 8
B. Section 3 Requirement Form and Action Plan ..... 8
C. Form HUD-5370-C Section I ..... 8
D. Cost Form ..... 8
E. Addendum Acknowledgement ..... 8
F. Other Required Documents/Information ..... 8

**4. Process for Selecting Contractor** ..... 9

4.1 RFP Timeline ..... 9
4.2 Questions/Answers ..... 9
4.3 Proposal Due Date ..... 9
4.4 Selection Process ..... 10
4.5 Evaluation Criteria ..... 11

**5. Contract Requirements** ..... 12

5.1 Contractor Requirements ..... 12
5.2 Contract Award ..... 12
5.3 Contract Conditions ..... 13
5.4 Contract Terms ..... 13

| Documents (in the order of the RFP Package) | | MUST be submitted with Proposal. |
|---|---|---|
| | PROPOSAL SUBMISSION REQUIREMENTS<br>(in Section 3 of RFP) | |
| | ***1. Proposal Format***<br>A. Letter of Interest<br>B. Demonstrated Experience and Past Performance<br>C. Technical Capabilities<br>D. Approach to Project<br>E. Proposed Cost Form ***(See Exhibit A)***<br><br>***2. Required Forms/Certifications*** *(All forms attached – except addendum acknowledgement. This will be issued if an Addendum is issued)*<br>A. Proposed Cost Form – Exhibit A<br>B. Profile and Certification Form<br>C. Section 3 Requirement Form and Action Plan<br>D. Form HUD-5369-A<br>E. Addendum Acknowledgement (*if applicable)*<br>F. Other Required Documents/Information | √ |
| | ATTACHMENTS – EXHIBITS/ FORMS/ DOCUMENTS | |
| A. | Proposed Cost Form – Exhibit A | √ |
| B. | Profile and Certification Form | √ |
| C. | Section 3 Requirements Form and Action Plan<br>- New Hire Section 3 Information Form' (*if applicable)* | √ |
| D. | HUD-5369 A, Representations, Certifications,and Other Statements of Bidders | √ |
| E. | HUD-5369 B, Instructions To Offerors - Non-Construction | |
| F. | HUD-5370 C**,** General Conditions for Non-Construction Contracts – Section I | |
| G. | Oakland Housing Authority Economic Opportunities Policy | |
| H. | The Authority Insurance Requirements | |
| I. | Sample Contract Agreement | |
| J. | Vendor Protests And Claims Procedures | |

# 1. GENERAL INFORMATION

## 1.1 RFP Introduction

The Oakland Housing Authority ("the Authority") invites proposals for recruitment services.

All proposals submitted in response to this solicitation must conform to all of the requirements and specifications outlined within this document in its entirety and any designated attachments.

For further information and/or updates on this RFP or any other OHA projects, you may go to the OHA website at www.oakha.org/ Select Procurement/Current Bid Openings or visit Housing Agency Marketplace through the following link:

https://ha.economicengine.com/requests.html?company_id=50863

**Proposers MUST register with Housing Agency Marketplace in order to submit a proposal.** It may take time to upload proposals so please take this into consideration when deciding what time to start uploading your proposal. **Please make sure that your proposal has been successfully uploaded even if you receive a notice acknowledging your proposal.** If you have any technical issues with the site, please contact Larry Hancock at 1-866-526-0160.

## 1.2 The Authority Reservation of Rights

- The Authority 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 Authority to be in its best interests.
- The Authority reserves the right not to award a Contract pursuant to this RFP.
- The Authority reserves the right to terminate a Contract awarded pursuant to this RFP, at any time for its convenience.
- The Authority 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 Authority reserves the right to negotiate the fees proposed by the proposed entity.
- The Authority 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 Authority shall reserve the right 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.

- The Authority is subject to the disclosure requirements of the California Public Records Act. This act will apply to all submitted proposals to the Authority.

### 1.3 The Authority Information

The Housing Authority of the City of Oakland was established in 1938 to assure the availability of quality housing for low-income persons. The Authority operates federally funded and other low-income housing programs and assists over 16,000 of Oakland's lowest-income families, elderly and persons with disabilities. The Authority serves and embodies a diverse community; therefore, it is crucial that contractors understand the effects of race, class, ethnicity, income, and other issues of difference in our society, and display a high level of cultural competency throughout their interactions with the Authority.

The mission of the Housing Authority of the City of Oakland is:

*To assure the availability of quality housing for low-income persons and to promote the civic involvement and economic self-sufficiency of residents and to further the expansion of affordable housing within Oakland.*

## 2. SCOPE OF WORK

A. Solicit input from OHA through meetings and/or interviews to understand the role, responsibilities, qualifications and appropriate experience needed for the position.

B. Marketing: Develop and implement an aggressive recruitment strategy and plan to identify potential qualified candidates, including the preparation and placement of advertisements in appropriate professional journals, publications and web-based/ technology platforms. Develop a timetable for completion of the work.

C. Sourcing: Actively seek those candidates whose background, experience and education best meet the needs of the position by sourcing job candidates through a number of different channels including advertising in nationally recognized publications likely to attract qualified candidates, proactively reaching out to candidates in the marketplace that may not be actively seeking the position, accessing the firm's network of qualified C-level candidates and other best practice recruitment strategies utilized in the industry

D. Assessment: As required, administer assessments for each search. In the event politically sensitive or potentially embarrassing issues arise from the candidate's background, conduct in-depth interviews with the principle parties to clarify the event.

E. Interview Process: Arrange and coordinate the interviews for the top qualified candidates, including but not limited to the development of interview itineraries and travel arrangements. Review resumes for background and qualifications followed by telephone and/or video interviews to clarify each applicant's experience and to prepare a written summary of 10 to 15 candidates with the most promising qualifications for the position.

F. Candidate Selection: Provide consulting and advisory services to hiring officials on the final candidate selection. In the event that the selected candidate leaves employment with the agency before a period of one year, an additional recruitment and selection process will be conducted at no cost to the agency.

G. References/Background Checks: Conduct complete and detailed reference check. A minimum of three reference checks must include a review of past, personal and public fiscal responsibility. The reference checks shall include a review of the applicant's technical ability, as well as the applicant's ability to effectively interact and communicate with co-workers. Preliminary criminal background checks of those candidates who appear to be best qualified for the position should be completed in advance of interviews.

The Respondent shall provide all required services and supplies to include labor, materials, and transportation in accordance with the requirements stated herein.

## 3. PROPOSAL SUBMISSION REQUIREMENTS

The Authority intends to retain the successful proposer or proposers pursuant to a "Best Value" basis, not a "Low Proposal" basis ("Best Value," in that the Authority will consider factors other than just cost in making the award decision). Therefore, so that the Authority can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the following sequence. None of the proposed services may conflict with any requirement the Housing Authority has published herein or has issued by addendum.

### 3.1 Proposal Format

To provide objective criteria that can be used in determining various Proposers' abilities, please address the following items in the order presented. Exhibits, such as Resumes, Proposed Fees, or any other documents of a related nature developed by the Contractor may be attached. The proposer may include any other general information that the proposer believes is appropriate to assist the Housing Authority in its evaluation.

The Authority will not provide any reimbursement for the cost of developing, presenting or providing any response to this RFP.

#### A. Letter of Interest

1. Please provide a letter of interest on the firm's letterhead, which includes the location of the primary office. Provide a narrative that gives a brief description of the firm, including the names and titles of principals, the main

office's address, phone number, fax number, website and email address, when the company was organized, the principal office from which services will be offered, alternative company names and affiliations, and principal areas of practice.

Provide a brief history of the Proposer's business including size, area of expertise, number of years engaged in business under the company's present name, relevant license number(s) and/or certifications, and other relevant information.

The proposer entity must provide a concise description of its managerial capacity and financial viability to deliver the proposed services.

This page should also include the name and contact information (address, phone and fax numbers, and email address) of the proposal contact and the proposed staff member(s) for this assignment, branch office location(s) and contact information.

2. Briefly describe how your firm will meet the minimum qualifications.

**B. <u>Demonstrated Experience and Past Performance</u>**

Information describing the firm's demonstrated experience in performing similar work and the firm's past performance (including meeting cost, schedule and performance requirements) of contract work substantially similar to that required by this solicitation as verifiable by reference checks or other means.

Provide a list of three (3) or more former or current clients, including the Public Housing Authorities, for whom the proposer has performed similar or like services to those being proposed herein.

The listing shall, at a minimum, include: the client's name, contact name, telephone number, email address, a brief description and scope of the service(s), and the dates the services were provided.

**C. <u>Technical Capabilities</u>**

Describe the firm's technical capabilities (in terms of personnel, equipment and materials), management capabilities (including staffing of key positions, method of assigning work and procedures for maintaining level of service, etc.) and subcontractor's capabilities.

**D. <u>Approach to Project</u>**

Describe the firm's demonstrated understanding of the Scope of Work and the firms approach to completing the services outlined in the Scope of Work.

**E. <u>Proposed Cost</u>**

Contractor must state the proposed costs for the services described in this RFP. See attached ***<u>"Exhibit A – Proposed Cost Form"</u>***.

**F. Required Forms**
See next Section 3.2, Required Forms/Certifications.

## 3.2 Required Forms/Certifications

The following forms must be submitted with your Proposal in the following order:

**A. Profile and Certification Form**
The form must be completed and signed.

**B. Section 3 Requirements Form and Action Plan**
The *Section 3 Requirements Form and Action Plan* attached must be completed and signed.

The Authority expects the selected Contractor to make a good effort to comply with the Section 3 policy. Refer to Attachment *"Section 3 Requirements - Oakland Housing Authority Economic Opportunities Policy"* in this RFP. The Contractor must describe proposed compliance with Section 3 of the Housing Act of 1968, as amended regarding the provision of training and employment opportunities for low-income persons, with priority to residents of the Authority, and a Certified Statement that the firm will make a good effort to comply with the Section 3 Policy. The Authority Project Manager and Contract Compliance Staff will monitor Contractor's compliance with Section 3 Requirements.

**C. Form HUD-5369-C**
Contractor must complete the Certifications of Representations of Offertory, Non Construction Contract (form HUD-5369-C).

**D. Cost Form**
The form must be completed and signed.

**E. Addendum Acknowledgement** (if applicable)

**F. Other Required Documents/Information**

a. Three References
b. If applicable, please identify any subcontractors that will be used for this job. Please Note: All major subcontractors (10% or more) must also submit the preceding required information (refer to Section 5.3 (3)).

## 4. PROCESS FOR SELECTING CONTRACTOR

### 4.1 RFP Timeline

The following are proposed dates relating to this Contractor selection process:

| | |
|---|---|
| November 30, 2020 | RFP Issued |
| December 14, 2020 | Questions in writing via email, due by 10:00 AM |
| December 21, 2020 | Responses to questions will appear as an Addendum posted on the OHA website and Housing Agency Marketplace |
| January 7, 2021 | Proposals due by 10:00 AM to be submitted online through Housing Agency Marketplace through the following link: https://ha.economicengine.com/requests.html?company_id=50863. **Proposers MUST register with Housing Agency Marketplace in order to submit a proposal.** . |

### 4.2 Questions/Answers

Questions may be addressed to Jeanne Smith at ccgs@oakha.org. All questions must be submitted in writing by December 14, 2020. All questions will be answered in writing in an Addendum issued and posted on the Authority's website as well as Housing Agency Marketplace if applicable by December 21, 2020. No questions will be responded to after the question and answer period has expired. The Addendum can be found on the Authority's website at www.oakha.org/Business Opportunities/Open RFPs and Bid Status/Active Bids/select appropriate RFP# or on Housing Agency Marketplace at the below link:

https://ha.economicengine.com/requests.html?company_id=50863/

**Please Note:** The Authority will, during the question and answer period (request must be submitted before the question deadline) consider any Contract clauses that the proposer wishes to include therein and submit in writing a request for the Authority to do so. If the proposed clauses are not accepted by the Authority, then the proposer must execute the Contract Form as is, and by submitting a Proposal, the successful Proposer agrees to do so.

### 4.3 Proposal Due Date

Responses to this solicitation will be accepted online at the Housing Agency Marketplace website at ha.economicengine.com until 10:00 AM (PST) on Thursday, January 7, 2021. **Proposers MUST register with Housing Agency Marketplace at the following link in order to submit a proposal.**

https://ha.economicengine.com/requests.html?company_id=50863

Please do not wait until the last minute to submit proposal, as it may take time to upload your proposal. To attach documents to your response, open the solicitation, and check the gray box near the bottom of the solicitation that says "Responder Will Bid", or in some cases, "Respond to this Bid Online". Be sure to review the total response to make sure this is exactly what you want to submit. Once review is complete, click on the "Confirm Response" link and you will get a confirmation

number/letters at the top of the page. Vendors are able to revise this response at any time prior to the solicitation deadline by logging in, clicking on the title of the solicitation/ View Response/ Revise Response. **Please make sure that your proposal has been successfully uploaded even if you receive a notice acknowledging your proposal.**

If you have any technical issues with the Housing Agency Marketplace website or questions regarding the process, please contact Larry Hancock at 1-866-526-0160 or the general support line at 1-866-526-9266.

Late proposals will not be considered.

## 4.4 Selection Process

All responses will be reviewed for completeness and responsiveness. Proposals will be reviewed, and the most qualified Proposers may be required to be interviewed by a selection committee that will complete a final evaluation. The selection will be the sole responsibility of the Authority. The Authority reserves the right to reject any and all proposals, and shall select a service provider based on the most advantageous conditions for the Authority.

A. **Initial Evaluation for Responsiveness**
Each proposal received will first be evaluated for responsiveness (e.g., meets the minimum of the published requirements). The OHA reserves the right to reject any proposals deemed by the OHA not minimally responsive and to waive any minor informalities they deem so (the OHA will notify such firms in writing of any such rejection).

B. **Evaluation Committee**
Internally, an Evaluation Packet will be prepared for each Evaluator. The OHA anticipates that it will select a minimum of three (3) people to serve on a committee to evaluate each of the responsive “hard copy” Proposals submitted in response to this RFP. PLEASE NOTE: No proposer shall be informed at any time during or after the RFP process as to the identity of any Evaluation Committee Member. If, by chance, a proposer does become aware of the identity of such person(s), he/she SHALL NOT make any attempt to contact or discuss with such person anything related to this RFP. As indicated in this document, the designated CCGS Staff is the only person at the OHA that the proposers shall contact pertaining to this RFP. Failure to abide by this requirement may (and most likely will) cause such proposer(s) to be eliminated from consideration for award.

C. **Evaluation**
The appointed Evaluation Committee, independent of CCGS, shall evaluate the responsive Proposals submitted and award points pertaining to the Evaluation Criteria.

D. **Potential “Competitive Range” and “Best and Finals” Negotiations**
The OHA reserves the right to conduct “Best and Finals” Negotiations, which may include oral interviews with all firms deemed to be in the competitive range.

Any firm deemed not to be in the competitive range shall be notified of such, in writing, by the OHA in as timely a manner as possible.

1. Determination of Top Ranked Proposer
   Typically, all points are awarded by the Evaluation Committee. The Committee's scores (points) will determine the final ranking. The final ranking is then typically forwarded by CCGS to the Executive Director for approval. If the evaluation was performed to the satisfaction of the Executive Director, the final ranking may be forwarded to the Housing Authority Board of Commissioners (BOC) at a scheduled meeting for approval. Contract negotiations may, at the OHA's option, be conducted prior to or after the BOC approval.

2. 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 Evaluation Committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on the Evaluation Committee.

## 4.5 Evaluation Criteria

The following criteria will be used to evaluate all Proposals:

| No. | Criteria | Points |
|---|---|---|
| 1. | **Experience**: Contractor's demonstrated experience to provide highly qualified candidates. | 40 |
| 2. | **Quality of Service**: Capacity to provide professional services in a timely and quality manner as evidenced by past performance. | 30 |
| 3. | **Technical**: Understanding of project requirements, proposed approach, methodology and quality of work plan. | 10 |
| 4. | **Cost Proposal**: Proposed compensation structuring in hourly rates as per the Cost Form. administrative fees, chargeable expenses and services, method and frequency of billing, which are reasonable according to industry standards and acceptable to Oakland Housing Authority.<br><br>In response to this criterion, the proposals must include "Exhibit A – Proposed Cost Form." | 20 |
| | Total | 100 |

## 5. CONTRACT REQUIREMENTS

### 5.1 Contractor Requirements

The Proposer(s) selected must be fully qualified to perform the services described above and must possess the appropriate licensing. In addition, as the work is funded with U.S. Department of Housing and Urban Development (HUD) funds, any required documents generated by the Proposer and/or the Authority must comply with all applicable HUD regulations specified in HUD-5370-C General Conditions of the contract for non-construction. The firm must also comply with all the Authority contract requirements.

Prior to award, the *successful proposer* will be required to provide the proper license documents and insurance certificates. See ***The Authority Insurance Requirements*** under *Attachment section of the Table of Contents.*

All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

### 5.2 Contract Award

**A. Negotiations.** Once Proposals have been evaluated and ranked, the Authority may use the contract negotiation process to obtain the most highly qualified Proposer(s) at a fair and mutually agreed-to price. The proposed Contract will include tasks with a Scope of Services and a Fee-Schedule.

The Authority reserves the right to enter into discussions with the firm(s) whose Proposal is deemed most advantageous and in the Authority's best interest for the purpose of negotiations. The Authority reserves the right to enter into negotiations with the responsible and responsive firms within the competitive range without the need to repeat the formal solicitation process.

The Authority reserves the right to award without discussions.

**B. Meetings.** Once the Contract is awarded, the Contractor(s) will meet with the Project Manager for this RFP and key staff to discuss the needs, method, and timeline of this requirement/service.

**C. Contract Award Procedure:** If a Contract is awarded pursuant to this RFP, the following detailed procedures will be followed:

**1.** By completing, executing and submitting a Proposal, the proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the Authority, including the Contract clauses already attached in the 'Sample Contractor Agreement' under the Attachment section of the Table of Contents. Accordingly, the Authority has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published.

## 5.3 Contract Conditions

The following provisions are considered mandatory conditions of any Contract Award made by the Authority pursuant to this RFP:

1. **Contract Form:** The Authority will not execute a Contract on the successful Proposer's Form. Contracts will only be executed on OHA's Form (please see ***Sample Contract Agreement***) and by submitting a Proposal the successful proposer agrees to do so (please note that the Authority reserves the right to amend this form as OHA deems necessary). However, the Authority will, during the question and answer period (request must be submitted before the question deadline) consider any Contract clauses that the proposer wishes to include therein and submits in writing a request for OHA to do so. **IF THE PROPOSED CLAUSES ARE NOT ACCEPTED BY THE AUTHORITY, THEN THE PROPOSER MUST EXECUTE THE CONTRACT FORM AS IS.** Failure of the Authority to include such clauses does not give the successful proposer the right to refuse to execute OHA's Contract Form. It is the responsibility of each prospective proposer to notify OHA, in writing, before the question deadline, of any Contract clause that he/she is not willing to include and abide by in the final executed Contract. OHA will consider and respond to such written correspondence in the Addendum, and if the prospective proposer is not willing to abide by OHA's response (decision), then that prospective proposer shall be deemed ineligible to submit a Proposal.

   ***Please note: OHA has no legal right or ability to (and will not) at any time, negotiate any clauses contained within ANY of the HUD Forms included as a part of this RFP.***

2. **Assignment of Personnel:** The Authority shall retain the right to demand and receive a change in personnel assigned to the work if the Authority believes that such change is in the best interest of the Authority and the completion of the contracted work.

3. **Unauthorized Sub-Contracting Prohibited:** The Proposer shall identify hereunder whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the Proposal is a joint venture with another firm. The successful Proposer shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the Contract) without the prior written consent of the Authority. Any purported assignment of interest or delegation of duty without the prior written consent of the Authority shall be void and may result in the cancellation of the Contract with the Authority, or may result in the full or partial forfeiture of funds paid to the successful Proposer as a result of the proposed Contract; either as determined by the Authority.

## 5.4 Contract Terms

The Authority intends to enter into a two year – initial term agreement with the selected firm(s), with three one-year options to renew by mutual agreement.

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# ATTACHMENTS

## *(EXHIBITS / FORMS / DOCUMENTS)*

# EXHIBIT A

## PROPOSED COST FORM

The following table represents a hypothetical scenario and is designed for quote comparison purposes only.

| | Year 1-2 | | Year 3 | | Year 4 | | Year 5 | | |
|---|---|---|---|---|---|---|---|---|---|
| **Oakland Housing Authority Job Classification** | **Hourly Rate Year 1 and 2** | **Total Cost for Year 1-2 based on 200 hours per year** | **Hourly Rate Year 3** | **Total Cost for Year 3 based on 200 hours** | **Hourly Rate Year 4** | **Total Cost for Year 4 based on 200 hours** | **Hourly Rate Year 5** | **Total Cost for Year 5 based on 200 hours** | **Total Cost of Years 1-5 based on 200 hours per year** |
| Executive Positions | | | | | | | | | |
| Law Enforcement Executive Positions | | | | | | | | | |
| Non-Executive Positions | | | | | | | | | |

| | Year 1-2 | Year 3 | Year 4 | Year 5 | Total |
|---|---|---|---|---|---|
| Anticipated Additional Costs (Travel, Administrative fees, etc.) | | | | | |
| | | | | **Grand Total*** | |

*5 Year Grand Total = Year 1 & 2 Total Cost + Year 3 Total Cost + Year 4 Total Cost + Year 5 Total Cost+ Anticipated Additional Fees
Costs will only be accepted as hourly rates except for Anticipated Additional Costs. Bids will not be accepted if submitted in a different format.

**Proposer Name:** _____

**Authorized Signature:** _____

**Title:** _____ **Date:** _____

**Address:** _____

**Telephone:** _____ **Email:** _____

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# PROFILE AND CERTIFICATION FORM (*Page 1 of 2)*

(1) Prime ____ Sub-contractor _____ *(This form must be completed by and for each).*

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

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

(4) Primary Contact for this Project: _____ Email Address:_____

(5) Identify Principals/Partners in Firm (Attach *professional resumes* for each):

| NAME | TITLE | % OF OWNERSHIP |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please attach *professional resumes* for each. (Do not duplicate any resumes required above):

| NAME | TITLE |
|---|---|
| | |
| | |
| | |
| | |

(7) Bidder Diversity Statement: You must circle all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

☐ Caucasian American (Male) _____%
☐ Public-Held Corporation _____%
☐ Government Agency _____%
☐ Non-Profit Organization _____%

Resident- (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following:

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

☐Woman-Owned (MBE) _____%
☐Woman-Owned (Caucasian) _____%
☐Disabled Veteran _____%
☐Small Business _____%
☐Other (Specify): _____%

If applicable, WMBE Certification Number:_____
Certified by (Agency):_____

(8) Federal Tax ID No.:_____

(9) Business Name as Listed on the California Secretary of State Website: _____

(10) California Secretary of State Entity Number: _____

(11) [APPROPRIATE JURISDICTION] Business License No.:_____

(12) State of _____ License Type and No.:_____

* The undersigned party submitting this bid hereby certifies that the firm can meet and comply with OHA's "Section 3 Requirements" attached hereto. *(See 'Section 3 Requirements Form and Action Plan')*

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# PROFILE AND CERTIFICATION FORM *(Page 2 of 2)*

(11) Insurance Certification: The undersigned party submitting this bid hereby certifies that the firm can meet and comply with OHA's "Insurance Requirements" attached hereto. *(See 'OHA Insurance Requirements' attached)* Copies of insurance certificates may be submitted with the proposal or the information completed below. The insurance policies must name OHA as an additional insured and maintained throughout the term of the contract. The firm(s) must provide OHA with Certificates of Insurance for the preceding coverage. The insurance policies must provide a 30-day notice of cancellation and be primary to any other insurance carried by OHA.

Worker's Compensation Insurance Carrier: _____
Policy No.:_____ Expiration Date: _____
General Liability Insurance Carrier:_____
Policy No. _____ Expiration Date: _____
Professional Liability Insurance Carrier: _____
Policy No. _____ Expiration Date: _____

(12) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of _____, or any local government agency within or without the State of _____? Yes ☐ No ☐
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.

(13) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the HA? Yes ☐ No ☐
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.

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

(15) Indemnification Certification: The undersigned party submitting this bid hereby certifies that the firm expressly agrees to indemnify, defend, hold harmless and indemnify the Authority, and its respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of this Contract and any of Contractor's operations or activities related thereto, excluding the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

(16) Section 3 and Labor Compliance: The undersigned party submitting this bid hereby certifies that the firm can meet and comply with OHA's "Section 3 Requirements" and Labor Compliance standards including submission of certified payrolls and paying employees the required prevailing wages. *(Section 3 Information, Economic Opportunities Policy, and Labor Compliance standards may be found on our website at www.oakha.org/ Business Opportunities/Section 3.)*

(17) Labor Code Certification: The undersigned party submitting this bid hereby certifies that party submitting this bid hereby is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this Agreement".

(18) Verification Statement: The undersigned bidder hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HA discovers that any information entered herein is false, that shall entitle the HA to not consider nor make award or to cancel any award with the undersigned party.

| _____ | _____ | _____ | _____ |
|---|---|---|---|
| **Signature** | **Date** | **Printed Name** | **Company** |

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Oakland Housing Authority

# Contractor's Summary Guide to Section 3 Compliance

The purpose of Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u) (section 3), and 24 CFR Part 135, is to ensure that training, employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns, which provide economic opportunities to low- and very low-income persons." **For the complete text of the Section 3 regulations, visit** www.hud.gov/section3.

**Oakland Housing Authority's Section 3 Economic Opportunities Policy (included in bid documents)**
Oakland has one of the highest unemployment rates in the Bay Area. Oakland Housing Authority (OHA) residents make up over 10% of Oakland's population. OHA developed its **Economic Opportunities Policy** (EOP) to comply with the Housing and Urban Development (HUD) Section 3 regulations and ensure that, to the greatest extent feasible, economic opportunities are provided to low- and very low-income persons and to Section 3 business concerns within the city of Oakland. All contractors undertaking Section 3 covered projects and activities on behalf of OHA are expected, to the greatest extent feasible, to meet the numerical goals set forth below. The policy does not apply to contractors who furnish only materials or supplies and do not undertake installation of materials or supplies. The **EOP** is also available from OHA's website www.oakha.org/procurement/sec3EcoOpportPolicy.pdf.

## Section 3 Requirement for All Bidders

As part of the application or bidding process, a Section 3 Business Preference and Action Plan are included in bid documents**.** Contractors have the option to request Certification as a Section 3 business; however, every proposer **MUST** complete the Action Plan and submit it with their bid, even if no hires are projected.

> Certification for Business Seeking Section 3 Business Preference form: Everyone must complete the top portion (check one box, name of business etc.) and sign at the bottom. Fill in the other parts ONLY if you are claiming Section 3 business status.
>
> Action Plan (3 pages): Everyone must complete the top portion listing your company etc., where applicable, and sign every page. If you **do not** anticipate new hires, note that in the table on page 1 and 3. If you **do** anticipate new hires, then use page 1 to detail the job categories and page 3 to describe how you will fill those positions.

## Section 3 Requirements for Awardees

**Baseline Reporting and Hiring Projections Form**
Prior to the Notice to Proceed, the contractor/subcontractor will be responsible for documenting the current workforce (baseline) and providing more accurate hiring projections per job classification than those described in the Action Plan. The Plan that is approved will become part of the contractual agreements.

**Hiring Goals**
The Section 3 requirement is triggered when there is a need for ***new*** economic opportunities, such as individual employment, contracting, or subcontracting. The regulation requires that contractors and subcontractors provide, ***to the greatest extent feasible***, economic opportunities (training, employment, and contracting) to low and very-low income residents Section 3 businesses.

Contractors and subcontractors are required to make every effort to the greatest extent feasible to meet the OHA's numerical hiring goals of having Section 3 qualified employees make up **30% of their total new-hires**. **Firms must seek to maintain this percentage throughout the life of the project**. If these goals are not met, the contractors are expected to show documentation demonstrating their efforts to hire Section 3 candidates by exhausting all available hiring sources. While a contractor receives credit for hiring low-income residents of Oakland, **first priority should be given to residents of the Oakland Housing Authority**. This includes residents in both the public housing and Section 8 programs.

**Hiring Priorities**

| | |
|---|---|
| First priority (OHA residents): | Residents of the development where the work is being performed |
| Second priority (OHA residents): | Other residents of Oakland Housing Authority owned or managed properties |
| Third priority (Oakland residents): | Other residents within the city of Oakland that meet the low-income requirements (see definition of **Section 3 Resident** below). |

**Resident Referral Process**

OHA is committed to working with general contractors and subcontractors to help them reach their Section 3 goals. Therefore, we have established a pre-screening and referral process to identify qualified OHA residents who satisfy the first and second hiring priorities (above). This process ensures that each candidate is in good standing with the housing authority and has a background that qualifies him/her to perform the essential functions of the job.

To ensure the best possible match, it is important that contractors communicate their hiring needs to OHA well in advance of the project start date. We request at least 2 business days' notice before the employee's start date, but earlier notice is preferred. We will work with you to identify a pool of candidates for each position. If we cannot provide you with a candidate, we will grant you a waiver to document your efforts to meet the Section 3 goals.

Union Contractors: OHA's Family and Community Partnerships department (FCP) has established a list of current OHA residents in construction trade unions that is sent to contractors on a regular basis. If there is no candidate that meets your hiring needs, you are encouraged to consider sponsoring an OHA resident who is not a member of a trade union to meet your Section 3 hiring goals.

Please contact **OHA's Dan Abrami at 510.587.5127 or dabrami@oakha.org** for a list of qualified residents, to request a candidate, or verify the Section 3 eligibility of any prospective hire. For more information about providing economic opportunities to OHA resident's contact:

Employment Development Coordinator
Family & Community Partnerships Department
**Phone: 510.587.5127**
Fax: 510.587.5141
**Email: dabrami@oakha.org**

**New Hire Section 3 Information Form**

General contractors and subcontractors will be provided this form upon award. Every ***new hire*** should be requested to complete the form. The form provides the means to determine Section 3 eligibility of the employee. The forms should be submitted to OHA as soon as possible after hiring for verification of Section 3 status.

**Monthly Reports**

OHA requires monthly reports listing all new hires and Section 3 hires from all contractors and subcontractors on Section 3 covered projects. A sample report will be provided. Reports shall be due on the fifth day of each month for the preceding month. These reports shall be submitted to:

Rufus Davis, Labor and Section 3 Compliance Officer
Phone: 510.587.2176
Email: rdavis@oakha.org

**Record Maintenance and Documentation**

All projects and activities that are subject to Section 3 requirements shall maintain comprehensive documentation of their Section 3 outreach efforts and implementation activities. Section 3 documentation files should be clearly maintained and be available for review by Oakland Housing Authority and/or HUD officials.

**Compliance Reviews**

OHA staff will conduct regular compliance reviews, which consist of comprehensive analysis and evaluation of the contractor's compliance with Section 3. Where noncompliance is found, OHA will notify the contractor of the deficiency and make recommendations for corrective actions.

## Useful Definitions

**Business Concern**
A business entity formed in accordance with state law, and which is licensed under state, county or municipal law to engage in the type of business activity for which it was formed.

**"Greatest Extent Feasible"**
Recipients of Section 3 financial assistance must make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting opportunities by developing strategies that will specifically target Section 3 residents and businesses for these new economic opportunities.

**Household Income Levels**
Low and very-low income limits are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the median income for each locality by household size or number of people residing in one house. HUD income limits can be obtained from www.huduser.org/portal/datasets/il.html.

**New Hire**
A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created as a direct result of the expenditure of federal funds on Section 3 covered projects. Any employee that is not on the payroll of a contractor or developer on the day [i.e., that a purchase order is issued or the day a contract is signed or agreed upon] that the Section 3 covered assistance was provided, is considered a new hire.

**Section 3 Business Concern**
A business concern that meets one or more of the following requirements:

- 51% or more owned by Section 3 residents
- 30% or more of permanent, full-time workforce consists of Section 3 residents
- Provides evidence to subcontract at least 25% of the dollar awarded to qualified Section 3 businesses

**Section 3 Resident**

(1) An Oakland Housing Authority public housing resident or Section 8 voucher holder; or

(2) An individual who resides in the service area (Oakland) in which the Section 3 covered assistance is expended, and whose income status is as follows:

| Number of People in Household | Annual Household Income Limits (Source: 24 CFR 570.3) |
|---|---|
| 1 | $26,050 or less |
| 2 | $29,750 or less |
| 3 | $33,450 or less |
| 4 | $37,150 or less |
| 5 | $40,150 or less |
| 6 | $43,100 or less |
| 7 | $46,100 or less |
| 8 | $49,050 or less |

**(Income limits eff. 03/01/2019)**

Questions regarding the Oakland Housing Authority Section 3 Program should be addressed to:

Rufus Davis, Labor and Section 3 Compliance Officer
Oakland Housing Authority
1805 Harrison Street, First Floor
Oakland, CA 94612
Phone: 510.587.2176
Email: rdavis@oakha.org

Oakland Housing Authority

# Section 3 Business Certification and Action Plan

**Section 3 Business Certification – 1 page**

☐ Check this box if you are **not** claiming Section 3 business status. Complete Section 1 and the signature block at the bottom of this page and proceed to the **Section 3 Action Plan**.

## SECTION 1

Company Name _____

Address _____

Type of Business (Check One): ☐Corporation ☐Partnership ☐Sole Proprietorship ☐Other

Project (Bid/RFP #) _____ Business Activity _____

## SECTION 2

**Current Section 3 Status:** The undersigned bidder/proposer hereby certifies that it is a Section 3 business concern and attaches relevant documentation, ***as applicable,*** to support such claim**.**
**Select only one option.**

1. A business claiming status as a Section 3 resident-owned business concern (ROB):
   **Initial here to select this option** _____

   ☐ OHA resident lease
   ☐ Copy of receipt of public assistance
   ☐ Other evidence of income status
   ☐ Fictitious or Assumed Business Name Certificate
   ☐ Organization chart with names and titles and brief job description
   ☐ List of owners/stockholders and % of each
   ☐ Latest board minutes appointing officers
   ☐ Articles of incorporation
   ☐ Partnership agreement

2. A business claiming Section 3 status because at least 30% of its permanent full-time employees are currently Section 3 residents or, within 3 years of the date of first employment with the business concern, were Section 3 residents. If a business claims this option, the 30% employment requirement must be maintained for the entire project. **Initial here to select this option** _____

   ☐ List of all current full time employees
   ☐ OHA residential lease (less than 3 years from date of employment)
   ☐ List of all employees claiming Section 3 status
   ☐ Other evidence of Section 3 status (less than 3 years from date of employment)

3. A business claiming Section 3 status by subcontracting 25% or more of the dollar award to qualified Section 3 businesses (as set forth in Options 1 and 2). **Initial here to select this option** _____

   ☐ Provide a list of intended Section 3 business subcontractors with subcontract amount.
   ☐ Include this Section 3 Certification form and all supporting documentation for each planned Section 3 business subcontractor.

**If you are or become certified as a Section 3 business, do you grant OHA permission to share your business contact information with firms seeking to contract with Section 3 businesses?** ☐ **Yes** ☐ **No**

**I attest that the above information is true and correct.**

_____ _____
Signature Printed Name

_____ _____
Title Date

Oakland Housing Authority

# Section 3 Action Plan (2 pages)

All firms and individuals bidding on any Section 3 covered contract with the Oakland Housing Authority (OHA) **MUST COMPLETE AND SUBMIT THIS ACTION PLAN WITH THE BID, OFFER, OR PROPOSAL**. Any solicitation response that does not include this document (completed and signed) will be considered non-responsive and not eligible for award.

## PRELIMINARY STATEMENT OF CURRENT WORKFORCE AND HIRING NEEDS

*THIS PLAN OUTLINES YOUR COMMITMENT TO OHA'S SECTION 3 HIRING GOALS*

COMPANY NAME: _____

ADDRESS: _____

PROJECT (BID/RFP#): GENERAL ☐ SUBCONTRACTOR ☐

| JOB CATEGORY: EXAMPLES ADMINISTRATIVE ASST., OFFICE MANAGER, CLERK, PROJECT MANAGER, EQUIPMENT MECHANIC, JANITORIAL, HOUSING MANAGEMENT, LABORER, LANDSCAPER, GLAZIER-JOURNEYMAN, GLAZIER-APPRENTICE, PLUMBER-JOURNEYMAN, PLUMBER-APPRENTICE | (A) # of CURRENT Employees (Core Staff) | (B) PROJECTED # of New Hires FOR THIS PROJECT | (C ) PROJECTED # of Section 3 Hires | (D) PROJECTED Section 3 Hires as a Percentage of NEW HIRES |
|---|---|---|---|---|
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| OTHER, PLEASE LIST. | | | | % |

___ (Check here and attach another sheet if applicable)

☐ **Check this box if contractor does not anticipate triggering the regulation by the need for new hiring or subcontracting opportunities. Complete the signature block at the bottom of this page.**

**I attest that the above information is true and correct. The company certifies that the above table represents the appropriate number of employee positions and also represents the number of Section 3 employees that the company proposes to hire.**

_____ _____
Signature Printed Name

_____ _____
Title Date

# Section 3 Action Plan (continued)

## EFFORTS TO ACHIEVE SECTION 3 COMPLIANCE

Indicate the efforts your organization will take to direct employment and other economic opportunities, to the greatest extent feasible, to low-income residents. Think about how you can leverage your resources and expertise to foster training and employment opportunities for Section 3 residents. **Examples** include, but are not limited to, the following. Check all that apply.

- ☐ Refer to any list of pre-screened job-ready applicants provided by OHA's Department of Family and Community Partnerships (FCP) (***REQUEST A LIST from FCP at S3hire@oakha.org or 510-587-5127).***
- ☐ Utilize and manage union privileges such as name-call, transfer, rehire, and sponsorship.
- ☐ Financially sponsor OHA resident(s) in trainings, certifications, professional mentorships, etc.
- ☐ Distribute flyers door-to-door to OHA owned and managed properties.
- ☐ Run multiple advertisements in local media such as newspapers and radio stations, and/or Internet-based job-posting websites announcing the hiring and contracting opportunities.
- ☐ Contract with certified Section 3 businesses, in construction and non-construction trades ***(REQUEST A LIST from Rufus Davis at OHA, rdavis@oakha.org or 510-587-2176).***
- ☐ Post signs at the entrance to the job site stating that it is a Section 3 covered project.
- ☐ Sponsor (schedule, advertise, finance, or provide in-kind services) a job informational meeting to be conducted by the housing authority or a contractor representative.
- ☐ Undertake job counseling, education and related programs in association with local educational institutions.
- ☐ Other: _____

_____

_____

_____

_____

_____

_____

_____

_____

**I attest that the above information is true and correct.**

| | |
|---|---|
| _____ | _____ |
| Signature | Printed Name |
| _____ | _____ |
| Title | Date |

# SECTION 3 CLAUSE (24 CFR 135.38)

***This contract is subject to the following conditions under Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3).***

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 or 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 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 (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 Enterprise. 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).

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

# Representations, Certifications, and Other Statements of Bidders

# Public and Indian Housing Programs

# Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

**Table of Contents**


| Clause | | Page |
|---|---|---|
| 1. | Certificate of Independent Price Determination | 1 |
| 2. | Contingent Fee Representation and Agreement | 1 |
| 3. | Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions | 1 |
| 4. | Organizational Conflicts of Interest Certification | 2 |
| 5. | Bidder's Certification of Eligibility | 2 |
| 6. | Minimum Bid Acceptance Period | 2 |
| 7. | Small, Minority, Women-Owned Business Concern Representation | 2 |
| 8. | Indian-Owned Economic Enterprise and Indian Organization Representation | 2 |
| 9. | Certification of Eligibility Under the Davis-Bacon Act | 3 |
| 10. | Certification of Nonsegregated Facilities | 3 |
| 11. | Clean Air and Water Certification | 3 |
| 12. | Previous Participation Certificate | 3 |
| 13. | Bidder's Signature | 3 |


## 1. Certificate of Independent Price Determination

(a) The bidder certifies that--

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

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

(1) Is the person in the bidder'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)(l) 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)(l) through (a)(3) above.

_____ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder'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 deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[ ] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding $50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [ ] is, [ ] is not included with the bid.

## 2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

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

(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.

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

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

## 3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding $100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of $100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

## 4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

(a) Result in an unfair competitive advantage to the bidder; or,

(b) Impair the bidder's objectivity in performing the contract work.

[ ] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

## 5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

## 6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

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

The bidder 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 business enterprise. "Women-owned business enterprise," as used in this provision, means a 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 business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled 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 |

## 8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [ ] is, [ ] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [ ] is, [ ] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

**9. Certification of Eligibility Under the Davis-Bacon Act** (applicable to construction contracts exceeding $2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**10. Certification of Nonsegregated Facilities** (applicable to contracts exceeding $10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed $10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**Note:** The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

**11. Clean Air and Water Certification** (applicable to contracts exceeding $100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [ ] is, [ ] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

**12. Previous Participation Certificate** (applicable to construction and equipment contracts exceeding $50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate"

[ ] is, [ ] is not included with the bid.

**13. Bidder's Signature**

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

_____
(Signature and Date)

_____
(Typed or Printed Name)

_____
(Title)

_____
(Company Name)

(Company Address)

DocuSign Envelope ID: 4A0B8D99-4455-4C9B-B4FA-86C046EF0E2D

# 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:]

# 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. 3/31/2020)

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 $105,000 - use Section I**;
2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than $2,000 but not more than $150,000 - use Section II**; and
3) **Maintenance contracts** (including nonroutine maintenance), **greater than $150,000 – use Sections I and II**.

**Section I - Clauses for All Non-Construction Contracts greater than $150,000**

### 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 been titled 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 pubic 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.

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Oakland Housing Authority

# OHA ECONOMIC OPPORTUNITIES POLICY

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Oakland Housing Authority Economic Opportunities Policy

**Background:**

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C, 1701U (hereinafter referred to as "Section 3") requires that economic opportunities generated by certain U.S. Department of Housing and Urban Development financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low - and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

The U.S. Department of Housing and Urban Development's regulations implementing Section 3 are found at 24 CFR Part 135. It is the intent of OHA policy to comply fully with Section 3; and by publication of this policy, the OHA provides direction for application of this policy.

This policy shall remain in effect for all covered activities so long as this policy remains consistent with federal regulations or until changed by the Authority. . In any case where it is found that any provision of this policy or of a procedure or program undertaken in furtherance of this policy is found to be inconsistent with Section 3 or 24 CFR Part 135, Section 3 or 24 CFR Part 135 shall prevail.

**Policy Statement:**

*It is the policy of the Oakland Housing Authority to provide to the greatest extent feasible economic opportunities to low- and very low-income persons residing in Oakland metropolitan area (as defined in § 135.5 of 24 CFR Part 135 and to businesses meeting the definition of "Section 3 business concern" as defined by 24 CFR Part 135.*

*A Section 3 resident is :*

- A Public housing residents and/or
- An individual who live in the area where a HUD-assisted project is located and who is either low-or very-low income persons as determined by HUD

- **Determining Income Levels:**
- Low income is defined as 80% or below the median income of that area.
- Very low income is defined as 50% or below the median income of that area.

*(Income Limits are subject to change. Current Income Limits may be accessed on the OHA website at www.oakha.org.)*

**Section 3 business concern** is a business that:

- Is 51 percent or more owned by Section 3 residents;
- Whose permanent, full-time employees include persons, at least 30% of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

In furtherance of this policy the Oakland Housing Authority shall develop programs and procedures necessary to implement this policy covering all procurement contracts where labor and/or professional services are provided, in order to achieve the goals outlined below. This policy does not apply to routine maintenance, repair or replacement work using HUD housing and community development assistance for housing rehabilitation; nor does it apply to contractors who only furnish materials or supplies

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through OHA's procurement program, and do not undertake work, as in the installation of the material or equipment All covered contracts executed after the adoption of this policy must comply with this policy.

**Goals:**

All contractors undertaking Section 3 covered projects and Section 3 covered activities on behalf of the Oakland Housing Authority are expected to meet the requirements of Section 3. Any contractor (whether or not it meets the definition of a Section 3 business), shall demonstrate compliance with the "greatest extent feasible" requirement of Section 3, must meet the numerical goals set forth below for providing training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns. In meeting the goals, contractors are to apply a system of priority selection from among those Section 3 residents eligible pursuant to § 135.34, 24 CFR Part 135:

*First priority* - residents of the development where the work is to be performed.

*Second priority* - other residents of Oakland Housing Authority properties.

*Third priority* - other residents of Oakland who are participants of HUD Youth build programs being carried out in the City of Oakland.

*Fourth priority* - other persons from the Oakland metropolitan area who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

Furthermore, for all construction contracts in excess of $100,000, contractors and their subcontractors are required to utilize appropriate State-approved apprenticeship programs that have graduated apprentices as a means to meet the Section 3 employment goals.

Employment:

All contractors will seek the greatest extent feasible to achieve a level of 30% of all new hires to be low to very low-income residents of the Oakland metropolitan area.

**Preference for Section 3 business concerns:**

It is OHA's policy to conduct all procurement transactions in a competitive manner. Within this framework, preference shall be awarded to Section 3 business concerns according to the following system:

Small Purchases:

For Section 3 covered contracts aggregating no more than $100,000, the Authority shall follow its small purchase procedures as outlined in its procurement policy. *Small Purchases require at least 3 competitive quotes. Purchases under $2,000 (also known as Micro Purchases) do not require competitive quotes.*

Competitive (Sealed) Bids (IFBs): *(IFB=Invitation For Bids)*

Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

1. Bids shall be solicited from all businesses (Section 3 business concerns and non Section 3 business concerns). An award shall be made to the qualified Section 3 business concern with the highest priority ranking (as defined in 24 CFR Part 135) and with the lowest responsive bid if that bid:
   - A. is within the maximum total contract price established in the Authority's budget for the specific project for which bids are being taken; and
   - B. is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

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| X = lesser of: |
|---|
| When the lowest responsive bid is less than $100,000 . . . .10% of that bid or $9,000<br>When the lowest responsive bid is:<br>At least $100,000, but less than $200,000 . . . .9% of that bid or $16,000<br>At least $200,000, but less than $300,000 . . . .8% of that bid or $21,000<br>At least $300,000, but less than $400,000 . . . .7% of that bid or $24,000<br>At least $400,000, but less than $500,000 . . . .6% of that bid or $25,000<br>At least $500,000, but less than $1 million . . .5% of that bid or $40,000<br>At least $1 million, but less than $2 million . .4% of that bid or $60,000<br>At least $2 million, but less than $4 million . .3% of that bid or $80,000<br>At least $4 million, but less than $7 million . .2% of that bid or $105,000<br>$7 million or more . . . .1 1/2% of the lowest responsive bid, with no dollar limit. |

2. If no responsive bid by a Section 3 business concern meets the requirements of paragraph 1 of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.
3. In both paragraph 1 and 2 above, a bidder, to be considered as responsible, must demonstrate compliance with the "greatest extent feasible" requirement of Section 3.

Competitive Proposals (RFP) *(RFP=Request For Proposals)*

Where the Section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. In accordance to 24CFR135, the rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating systems. Proposals from firms not demonstrating compliance with the "greatest extent feasible" requirement of Section 3 shall not be considered responsible.

In accordance to 24 CFR Part 135.36, Appendix Section III(3)ii:

*"(3) Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).*

*(i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.*

*(ii) (ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components."*

*(iii) With regard to the section 3 strategy, the RFP shall require the disclosure of the contractor's section 3 strategy to comply with the Section 3 training and employment*

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*preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.*

Other Provisions:

1. Federal labor standards requirements: Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a--276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines.

2. A section 3 business concern seeking a contract or a subcontract must submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

3. OHA will ensure compliance with section 3 requirements through efforts that may include the following:
   A. Requiring that contractors submit relevant documentation certifying their eligibility for preference under the section 3 program, and/or demonstrating their compliance with section 3 requirements.
   B. Conducting ongoing section 3 compliance review of applicable contractors and take appropriate action when they are found to be noncompliant with section 3 requirements.

   C. Refraining from entering into a contract with any contractor after notification by HUD that the contractor has been found in violation of section 3 regulations.

   D. Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

   E. Notifying potential contractors for section 3 covered projects of the requirements of this part.

4. All OHA section 3 covered contracts shall include the following clause set forth in 24 CFR 135.38:

   A. The work to be performed under this contract is subject to the

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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 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.

Definitions:
The Oakland Housing Authority incorporates into this policy the definitions contained in § 135.5 of 24 CFR Part 135 Further, the Oakland Housing Authority makes no representation concerning

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interpretation and meaning of Section 3 of the Housing Act of 1968, as amended, and of 24 CFR Part 135 beyond this policy. It is recommended that interest parties refer directly to the law and regulations for a complete understanding of their meaning.

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# Oakland Housing Authority

## *INSURANCE REQUIREMENTS*

Consultant/Contractor/Organization shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant/Contractor/Organizer, its agents, representatives, or employees.

### *Minimum Scope of Insurance*

Coverage shall be as least as broad as:

1. Insurance Services Office **Commercial General Liability coverage** (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering **Automobile Liability,** Code 1 (any auto).
3. **Workers' Compensation insurance** as required by the State of California and Employer's Liability Insurance.
4. **Errors and Omissions Liability** insurance appropriate to the consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.
5. **Fidelity Bond** appropriate to the on/off site personnel - coverage is to be endorsed to include indemnification from misconduct and dishonesty of contractor's/consultant's personnel.
6. **Cyber Security Insurance coverage** is to be endorsed to include indemnification from breach of contract and unauthorized client data access.
7. **Professional Liability Coverage** is to be endorsed to include indemnification from misleading or fraudulent acts.
8. **Builders Risk Insurance** as required by the State of California
9. **Crane Physical Damage Insurance** as required by the State of California (Code Section 1763.1)
10. **Pollution Insurance –** CalEPA standards of air emissions.

### *Minimum Limits of Insurance*

Consultant/Contractor/Organizers shall maintain limits no less than:

| | |
|---|---|
| 1. General Liability:<br><br>(Including operations, products and completed operations, as applicable.) | **$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either |

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| | the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. |
| 2. Automobile Liability: | **$1,000,000** per accident for bodily injury and property damage. |
| 3. Workers' Compensation and Employer's Liability: | **$1,000,000** per accident for bodily injury and property damage. |
| 4. Builders Risk Insurance: | **$1,000,000** per occurrence for direct physical property damage. |
| 5. Cyber Insurance: | **$1,000,000** per occurrence to cover both 1st and 3rd party claims through the entire contract; $200 per record per occurrence in the amount not to exceed the cost of the full contract. |
| 6. Builders Risk Insurance: | **$1,000,000** per occurrence for direct physical property damage. |
| 7. Crane Physical Damage Insurance: | **$1,000,000** per occurrence for direct physical property damage. |
| 8. Pollution | **$1,000,000** per occurrence for direct air emissions violations. |
| 9. Professional Liability Insurance: | **$1,000,000** per occurrence. |

***Deductible and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, officials, employees and volunteers; or the Consultant/Contractor/Organizers shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.

***Other Insurance Provisions***

The commercial general liability is to contain, or be endorsed to contain, the following provisions.

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## Oakland Housing Authority

1. The Authority, its commissioners, members, officers, agents, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant/Contractor/Organizer; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor/Organizer.

2. For any claims related to this project, the Consultant's/Contractor's/Organizer's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Authority, its commissioners, members, officers, agents, employees or volunteers shall be excess of the Consultant's/Contractor's/Organizer's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after (30) days' prior written notice by certified mail, returned receipt requested, has been given to the Authority.

4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Authority, its commissioners, members, officers, agents, employees and volunteers.

5. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VI, unless otherwise acceptable to the Authority.

***Verification of Coverage***

Consultant/Contractor shall furnish the Authority with certificates of insurance and with original endorsements evidencing coverage required by this clause. All certificates and endorsements are to be received and approved by the Authority before work commences. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

**Oakland Housing Authority shall be named as an additionally insured on all policies, certificate of insurance and endorsements.*

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C-(Add Contract Number)-SER

OAKLAND HOUSING AUTHORITY

SERVICES CONTRACT

This SERVICES CONTRACT ("Contract") is entered into as of **[effective date]**, by and between the OAKLAND HOUSING AUTHORITY, a public body, corporate and politic (the "Authority"), and **[name of contractor]**, **[legal status (e.g., "a California corporation," or "a sole proprietor")]** ("Contractor").

RECITALS

WHEREAS, **[In paragraph style tell a brief story of the background, necessity and purpose of the Contract. This is the appropriate place to recite (hence, the title "recitals") any special circumstances or consideration related to the Contract.];** and

NOW, THEREFORE, the Authority and the Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide the services described on Exhibit A, "Scope of Services."

2. TIME OF PERFORMANCE

The term of this Contract shall begin on **[starting date]** and end on **[Contract ending date]**.

**[For Option Terms]**

a. **Initial Term.** The Initial term of this Contract will begin on ____, and end on _____, unless earlier terminated as provided herein.

b. **First Option Term.** The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of ____ through ____ ("First Option Term") by giving written notice to the Contractor prior to the expiration of the Initial Term, unless earlier terminated as provided herein.

c. **Second Option Term.** The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of ___ through ___ ("Second Option Term") by giving written notice to the Contractor prior to the expiration of the First Option Term, unless earlier terminated as provided herein.

d. **Third Option Term.** The Authority, at its sole discretion, may elect to extend the term of the Contract for the period of ___ through ___ ("Third Option Term") by giving written notice to the Contractor prior to the expiration of the Second Option Term, unless earlier terminated ad provided herein.

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3. COMPENSATION AND METHOD OF PAYMENT

A. Compensation. The maximum amount payable under this Contract is _____ Dollars ($_____).

B. Taxes. No payroll or employment taxes of any kind will be withheld or paid by Authority on behalf of Contractor. Authority will not treat Contractor as an employee with respect to the contract services for any purpose, including federal and state tax purposes. Contractor understands and agrees that it is Contractor's responsibility to pay all taxes required by law, including self-employment social security tax. Authority will issue an IRS 1099 Form, or other appropriate tax reporting document, to Contractor for the Contract services.

C. Benefits. Contractor will not be eligible for, and will not participate in, any health, pension, or other benefit of Authority which exists solely for the benefit of Authority employees during the Contract Term.

D. Billings. Billings are to be directed to:

Oakland Housing Authority
Finance Department – Accounts Payable
1805 Harrison Street
Oakland, CA 94612

4. NO PERSONAL LIABILITY

No member, official or employee of the Authority shall be liable personally to Contractor or any successor in interest in the event of any default or breach by the Authority or for any amount which may become due to Contractor or any successor or on any obligation under the terms of this Contract.

5. ASSIGNMENT OF CONTRACT

Contractor shall not assign this Contract, or any part thereof, without the prior express written consent of the Authority.

6. STANDARD OF PERFORMANCE

The work provided hereunder shall be performed and completed in an accurate and professional manner. All services shall be performed in the manner and according to the standards observed by the competent practitioner of the profession in which Contractor and any subcontractors are engaged.

7. HUD REQUIREMENTS

Contractor agrees to comply with all relevant HUD Requirements, including those set forth in the General Conditions for Non-Construction Contracts, Form HUD-5370-C (01/2014), attached hereto as Exhibit C and incorporated as if fully set forth herein. In

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the event of a conflict between the provisions in the body of this Contract and Exhibit C, the provisions set forth in Exhibit C shall prevail.

8. INDEMNIFICATION

Contractor shall defend, hold harmless and indemnify the Authority, and its respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of this Contract and any of Contractor's operations or activities related thereto, excluding the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

9. INDEPENDENT CONTRACTOR

Contractor hereby declares that it is engaged in an independent business and agrees to perform its services as an independent contractor and not as the agent or employee of the Authority. Contractor has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Contractor agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state and local payroll tax and withholding requirements, Workers' Compensation Requirements and all regulations governing such matters. Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

10. INSURANCE

A. Contractor must procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors.

B. Minimum Scope of Insurance. Coverage must be at least as broad as:

(1) Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 00 01).

(2) Insurance Services Office Form number CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation Insurance as required by the State of California and Employers Liability Insurance.

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(4) Errors and Omissions Liability Insurance appropriate to the Contractor's profession covering all negligent acts, error and omissions. Architects' and Engineers' Insurance is to be endorsed to include contractual liability.

(5) Fidelity Bond appropriate to the on/off site personnel – coverage is to be endorsed to include indemnification for misconduct and dishonesty of contractors/consultants personnel.

(6) Cyber Security Insurance coverage is to be endorsed to include indemnification from breach of contract and unauthorized client data access.

C. Minimum Limits of Insurance. Contractor must maintain limits no less than:

(1) General Liability: One Million Dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.

(2) Automobile Liability: One Million Dollars ($1,000,000) per occurrence for bodily injury and property damage.

(3) Workers' Compensation and Employers Liability: Workers' Compensation Limits as required by the State of California and Employer's Liability Limits of One Million Dollars ($1,000,000) for bodily injury by accident and One Million Dollars ($1,000,000) per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees.)

(4) Professional Liability Insurance: One Million Dollars ($1,000,000) per occurrence.

(5) Cyber Insurance: One Million Dollars ($1,000,000) per occurrence to cover both 1st and 3rd party claims through the entire contract; $200 per record per occurrence in the amount not to exceed the cost of the full contract.

(6) Builder’s Risk Insurance: One Million ($1,000,000) per occurrence for direct physical property damage.

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D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, either: 1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the Authority, and its respective commissioners, members, officers, agents and employees; or 2) Contractor shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions. The General Liability and Automobile Liability Policies are to contain, or be endorsed to contain, the following provisions:

(1) The Authority and its respective commissioners, members, officers, agents and employees are to be covered as insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and liability arising out of work or operations performed by or on behalf of the Contractor.

(2) For any claims related to this Contract, the Contractor's insurance coverage must be primary insurance as respects to the Authority, and its respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by the Authority, and its respective commissioners, members, officers, agents or employees shall be excess of Contractor's insurance and shall not contribute with it.

(3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Authority and its respective commissioners, members, officers, agents or employees.

(4) Each insurance policy required by this clause must be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by Certified Mail, Return Receipt Requested, has been given to the Authority.

F. Workers' Compensation and Employers Liability Coverage. Insurer shall agree to waive all rights of subrogation against the Authority and its respective commissioners, members, officers, agents and employees for losses arising from work performed by Contractor or for the Authority.

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G. Claims Made Coverage. If General Liability and/or Errors and Omissions coverages are written on a claims-made form:

i. The "Retro Date" must be shown, and must be before the date of the Contract or the beginning of Contract work.

ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract work.

iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, the Contractor must purchase "Extended Reporting" Coverage for a minimum of five (5) years after completion of Contract work.

A copy of the claims reporting requirements must be submitted to OHA for review.

H. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VI.

I. Verification of Coverage. Contractor must furnish the Authority with certificates of insurance and with original endorsements evidencing coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsement may be on forms provided by the Authority. All certificates and endorsements are to be received and approved by the Authority before work commences. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

J. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein.

11. RECORDS, REPORTS AND AUDITS

A. Records

(1) Records shall be established and maintained in accordance with Authority Requirements, and U.S. Department of Housing and Urban Development ("HUD") Requirements with respect to all matters covered by this Contract. Except as otherwise authorized by the Authority, such records shall be maintained for a period of four (4) years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be retained for four (4)

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years or until such audit findings have been resolved, whichever is later.

(2) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

B. Reports and Information. At such times and in such forms as the Authority may require, there shall be furnished to the Authority or its designated representative such statements, records, reports, data and information as the Authority may request pertaining to matters covered by this Contract.

12. CONFLICTS

No employee, agent, contractor, officer or official of the Authority who exercises any functions or responsibilities with respect to this Contract or who is in a position to participate in a decision-making process or gain inside information with regard to it, shall obtain a personal or financial interest in or benefit from any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom they have family or business ties, during his or her tenure or for one (1) year thereafter. The term "Contractor" also includes the employees, officers (including Board Members), agents and subcontractors of a Contractor under this Contract. In order to carry out the purposes of this section, Contractor shall incorporate, or cause to be incorporated, in all contracts and subcontracts relating to activities pursuant to this Contract, a provision similar to that of this section.

13. CONFIDENTIALITY/PROPERTY OF AUTHORITY

All of the reports, information, data or other materials prepared or assembled by Contractor under this Contract, including Contractor's opinions and conclusions based upon such items, are confidential. Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without the prior written approval of the Authority. Unless otherwise stated in the Scope of Services, all such reports, information, data or other materials and work product shall become the property of the Authority.

14. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE

It is understood and agreed that Contractor shall comply with California Government Code, Section 7550. Government Code, Section 7550 provides in part that when the total cost for work performed for a local Authority by nonemployees of such Authority exceed Five Thousand Dollars ($5,000), any document or written report

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prepared in whole or in part by nonemployees for such Authority shall contain, in a separate section, the numbers and dollar amount of all contracts and subcontracts relating to the preparation of such document or written report.

15. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND MINORITY AND WOMAN-OWNED BUSINESS ENTERPRISES

A. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of this Contract. Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). Such action shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations to clients or the general public.

B. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

C. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Contractor shall provide all services to the public under this Contract in facilities that are accessible to persons with disabilities as required by state and federal law.

16. TERMINATION

Authority may, by written notice, at any time prior to the completion of the term, terminate this Contract for any reason, including, but not limited to, convenience of Authority, default by the Contractor, or circumstances beyond the control of the Contractor. In the event of such termination, Authority shall compensate the Contractor for work completed to the satisfaction of Authority as of the date of such notice or the date of termination specified in and directed by such notice. Upon payment of the amount due, Authority shall be under no further obligation to the Attorney, financial or otherwise.

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17. MISCELLANEOUS PROVISIONS

A. Notices. All notices, demands, consents, or approvals required under this Contract shall be in writing and shall be deemed given when delivered personally or by facsimile transmission or three (3) business days after being deposited in the U.S. Mail, First Class Postage Prepaid, Return Receipt Requested, addressed as follows:

If to the Authority: Oakland Housing Authority
1805 Harrison Street
Oakland, CA 94612
Attn: [contact],[title]

If to the Contractor: **[name]**
**[mailing address]**
**Attention: [contact], [title]**

or to such other addresses as the parties may designate by notice as set forth above.

B. Time of Performance

(1) Time is of the essence in the performance of all the terms and conditions of this Contract.

(2) All performance and cure periods expire at 5:00 p.m., Oakland, California time, on the applicable date.

(3) A performance or cure date which otherwise would be a Saturday, Sunday or Authority Holiday shall be extended to the next Authority working day.

C. Successors and Assigns. This Contract shall be binding upon and inure to the benefit of the successors and assigns of the Authority and the Contractor. Where the term "Contractor" or "Authority" is used in this Contract, it shall mean and include their respective successors and assigns; provided, however, that the Authority shall have no obligation under this Contract to, nor shall any benefit of this Contract accrue to, any unapproved successor or assign of Contractor where Authority approval of a successor or assign is required by this Contract.

D. Modification, Waiver and Amendment. Any modification, waiver or amendment of any of the provisions of this Contract must be in writing and signed by both the Authority and Contractor.

E. Entire Contract. This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Contractor and the Authority affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements,

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agreements and understandings between Contractor and the Authority with respect to the subject matter hereof.

F. Severability. If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.

G. Governing Law. This Contract shall be governed by the laws of the State of California. It is the responsibility of Contractor to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements.

H. Headings. Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.

I. Attorneys' Fees. In any action or proceeding arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

J. Authority. The undersigned represents and warrants that he or she has full power and authority to enter into this Contract and to bind the Contractor in accordance with its terms.

**SIGNATURES ON FOLLOWING PAGE**

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K. Designated Representative. The initial designated representative for the Authority for this Contract is _____. The initial Contractor-designated representative for this Contract is _____.

IN WITNESS WHEREOF the Authority and Contractor have executed this Contract as of the date first above written.

**[CONTRACTOR]**

By:_____Date:_____
**[SIGNATORY]**
**[TITLE]**
Federal Tax Identification No. _____

OAKLAND HOUSING AUTHORITY, a public body
Corporate and politic

By:_____ Date:_____
Patricia Wells
Executive Director

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# EXHIBIT A
## Scope of Services

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# EXHIBIT B
## Payment Schedule

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# EXHIBIT C
## General Conditions for Non-Construction Contracts
## Section 1
## HUD-5370-C (01/2014)

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# VENDOR PROTESTS AND CLAIMS PROCEDURES

**(As extracted and revised
from Oakland Housing Authority
Contracting and Purchasing Procedures)**

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# SECTION 1.19 VENDOR PROTESTS **AND CLAIMS** PROCEDURES

The following are the definitions of terms used in this section.

**Definitions:**

*OHA:* The abbreviation for the Housing Authority of the City of Oakland, California.

*Contracting Officer:* The Executive Director of OHA of the person designated by the Executive Director in writing.

*Vendor.* The person or firm that is involved in bidding, proposing, or quoting on an OHA material or service requirement, or has contracted with OHA to provide material or perform a service, or a person who has an interest in such matters.

*Claim:* The assertion of facts which serves as the basis for a demand of payment, reimbursement, or compensation believed by the vendor to be due the vendor. The claim must be submitted in writing, by the affected vendor, on the "Notice of Protest or Claim" form (MMO9501) furnished by OHA (copy attached).

*Protest:* A written complaint about, or an objection to, an administrative action or decision by OHA. The protest must be submitted, including any and all facts on which it is based, by the affected vendor, on the "Notice of Protest or Claim" form (MMO-9501) provided by OHA (copy attached).

*Response to Solicitation:* The vendor's written bid, quotation or proposal submitted in response to OHA's call for bids, quotations or request for proposals.

**Who May Submit A Protest or Claim:**

Any person as defined above in "Vendor" may submit a protest or claim.

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Vendor protests, claims, or disputes shall be resolved using the following procedures:

**A. Vendor protests prior to bid, quote or proposal opening:**

1. Vendor must submit a written notice of protest to OHA's Contracting Officer eight or more calendar days prior to the date set for the bid, proposal, or quotation opening.

2. Immediately upon receipt of the vendor's notice, the Contracting Officer shall date-stamp the notice and send a letter to the vendor acknowledging receipt of the notice. The Oakland Housing,,Authority acknowledgement shall indicate if the notice was filed within if required time period. A late notice is not eligible for consideration under this procedure. Any protest received after eight days prior to the date set for the bid, proposal, or quotation opening may be rejected without further consideration or may be considered under paragraph B below at the direction of the Contracting Officer.

3. Contracting Officer shall review the solicitation record to ensure the information provided by the protesting vendor is accurate. Based on a review of the vendor's protest and other relevant information, the Contracting Officer shall prepare a "Finding of Fact."

4. Based upon the "Finding of Fact," the Contracting Officer may elect to:

    a. Amend the Invitation to Bid by addendum to all prospective vendors. Addendum is to be mailed by registered mail, four or more days prior to the date of scheduled bid opening.
    b. Terminate the current Invitation to Bid, Quote, or Request for Proposal.
    c. Reject the claim in writing, detailing reason(s) for the rejection.

**B. Protests after the bid, quote, or proposal opening, but prior to award of contract:**

1. Vendor must submit a written notice of protest to the Authority's Contracting Officer within three calendar days of the bid opening date.

2. Immediately upon receipt of the vendor's notice, the Contracting Officer shall date-stamp the notice and send a letter to the vendor acknowledging receipt of the notice. The Oakland Housing Authority acknowledgement shall indicate if the notice was filed within the required time period. A late notice is not eligible for consideration under this procedure.

3. The vendor's protest, along with the solicitation's tabulation sheet, scope of work, copies of all responses received, and any other relevant documents shall be provided to the Contracting Officer. The Contracting Officer shall review the vendor's protest and the circumstances and prepare a "Finding of Fact."

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4. Based upon the "Finding of Fact;" the Contracting Officer may take any of (but is not limited to) the following actions:
    a. Allow the vendor to withdraw the vendor's response to the solicitation.
    b. Reject one or more vendor(s) response(s) to the solicitation for failing to be complete, lacking the required guarantee, or failing to conform to the solicitation's instructions.
    c. Reject all of the responses to the solicitation.
    d. Disqualify one or more vendor (s) as non-responsible and therefore ineligible for an award of contract.

Note: If the dollar amount of the lowest responsible response to the solicitation is such that the Board of Commissioners must approve the award of the contract, the Contracting Officer shall make a recommendation of action to the Board ratifying this finding (a-d above).

**C. Protests or claims after the award of contract (to be utilized <u>in the absence of contractual language</u> governing protests or claims):**

1. The vendor must, submit a written notice of protest or claim to OHA's Contracting Officer within seven calendar days. The time period shall start the day immediately following the date of the incident on which the notice is based.

2. Immediately upon receipt of the vendor's notice, the Contracting Officer shall date-stamp the notice and send a letter to the vendor acknowledging receipt of the notice. The Oakland Housing Authority acknowledgement shall indicate if the notice was filed within the required time period. A fate notice is not eligible for consideration under this procedure.

3. The Contracting Officer, with reasonable promptness (after obtaining the approval of HUD, if required), shall render a written decision to the vendor. Unless the vendor, within seven calendar days after the receipt of the decision, notifies the Contracting Officer in writing that it takes exception to such decision, the decision shall be final and conclusive.

4. The Contracting Officer's decision shall be final unless the vendor has accomplished all of the following:
    a. Given the notice of protest or claim within the proper time period, and
    b. Signed a final release of all claims, other than those unsettled claims listed on the final release with their separately stated amounts, and
    c. Brought suit against OHA (not later than one year after final payment, or in the absence of a final payment, within one year after a written request by OHA to the vendor to submit a final invoice or release) for a disposition of the protest or claim by a court of appropriate jurisdiction.

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5. Whether or not the vendor presents a protest or claim to the Contracting Officer or takes exception to a decision of the Contracting Officer, the vendor, unless directed otherwise by the Contracting Officer, shall proceed with the work as directed.

**D. OHA record requirement:**

1. OHA shall maintain a complete and detailed record of all protests and claims. The record shall include all pertinent correspondence, the written or recorded minutes of any meetings with the vendors making the protests or claims, and any information used in determining OHA's actions in the disposition of protests or claims.

DocuSign Envelope ID: 4A0B8D99-4455-4C9B-B4FA-86C046EF0E2D

# OAKLAND HOUSING AUTHORITY

## NOTICE OF PROTEST OR CLAIM

CLAIMANT:_____ DATE:_____

ADDRESS:_____

AGENT FILING:_____

PHONE:_____

Purchase Order No.: Invoice No.: Bid No.:

REASON FOR CLAIM OR PROTEST (ATTACH COPIES OF DETAIL DOCUMENTS IF ANY):

(OHA USE ONLY)

NOTIFICATION:_____ DATE RECEIVED STAMP

CONTRACTING OFFICER:_____

FILING DATE: _____

COMMENTS: _____