

**PROJECT NO.**

**5810B**

**DATE:**

**May 4, 2020**

## **PROJECT MANUAL AND SPECIFICATIONS FOR**

**LEAD BASED PAINT REMEDIATION AT: INDIAN HILLS (IL 16-1)**

**QUINCY HOUSING AUTHORITY  
JERRY GILLE, EXECUTIVE DIRECTOR  
540 HARRISON STREET  
QUINCY, ILLINOIS**

**CURRENT DATE: 5/4/2020**



**LICENSE EXPIRES: 11/30/2020**

# **ARCHITECHNICS**

**architects • engineers • interior designers**

510 Maine Street, Quincy, IL 62301 • 217-222-0554 • [info@architechnicsinc.com](mailto:info@architechnicsinc.com)



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LEAD BASED PAINT REMEDIATION AT: INDIAN HILLS (IL 16-1)

QUINCY HOUSING AUTHORITY  
540 HARRISON STREET  
QUINCY, ILLINOIS 62301  
ARCHITECTNICS PROJECT NO. 5810B

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01620 STORAGE AND PROTECTION  
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09650 RESILIENT FLOORING  
09900 PAINTING

SPECIFIER(S):        P.T. Westerhoff, A.I.A.  
                             I.D. Miller, P.E.  
                             Phone: 217-222-0554  
                             Fax:     217-223-3361



## ADVERTISEMENT FOR BID

The Quincy Housing Authority, Quincy, Illinois will receive sealed bids as defined in the Construction Documents for Lead Based Paint Remediation at Indian Hills (IL 16-1); Architechnics, Inc. Project No. 5810B.

Base Bid "A" – Lead Based Paint Remediation at Indian Hills (IL 16-1)

Bids will be received until 10:00 A.M. prevailing time on Thursday, May 21, 2020 at the Office of the Quincy Housing Authority, 540 Harrison Street, Quincy, Illinois, at which time and place all bids will be publicly opened and read aloud. **If the current federal and state social distancing guidelines are still in place at the time of the bid opening, an online meeting room will be provided to all bidding contractors in lieu of attending the bid opening in person.**

DIGITAL AND PAPER Plans and Specifications for bidding purposes are available online at [www.architechnicsinc.com](http://www.architechnicsinc.com) (click on the contractors tab) as well as at the offices of the architect, ARCHITECHNICS, INC. 510 Maine St., Quincy, IL 62301, 217-222-0554. A deposit of \$50.00 (paper) will be required for use of the Plans and Specifications for bidding purposes. Any bidder submitting a bid must obtain a paper copy of Plans and Specifications, and be listed on the Plan Holders List to have their bid accepted. **Deposits will be refunded in full, only to those contractors who submit a bona fide bid and to any plan holder who returns the bidding documents to the Architect's office within ten (10) days following the bid opening date.**

A certified check or bank draft, payable to the Quincy Housing Authority, Quincy, Illinois, U.S. Government bonds, or a satisfactory bid bond executed by the bidder and acceptable sureties in any amount equal to (5%) five per cent of the bid shall be submitted with each bid.

The successful bidder will be required to furnish and pay for satisfactory Performance, Labor, Material and Payment Bond or Bonds.

**Attention is called to the provisions for equal employment opportunity. Section 3 low income residents and businesses are strongly encouraged to apply.**

Attention is called to the provisions for equal employment opportunity, and payment of not less than the minimum salaries and wages as set forth in the Specifications, and determined by the U.S. Department of Labor, must be paid on this Project.

Appointments to view the Project Site shall be scheduled with the office of the Modernization Coordinator, Mr. Bruce Johnston, by calling (217) 222-0720, Ext. 407.

A Pre-Bid Meeting will be held at Indian Hills (IL 16-1), 540 Harrison Street, Quincy, Illinois, in the Community Room, at 10:00 A.M. on Wednesday, May 13, 2020. All Contractors and Suppliers are encouraged to attend. Owner and A/E representatives will be on hand to address questions and provide a “tour” of the existing site. **If the current federal and state social distancing guidelines are still in place at the time of the pre-bid meeting, the meeting will begin in the parking lot outside the Community Room, and small group or individual tours of the existing facilities will be provided as required.**

The Quincy Housing Authority reserves the right to reject any or all bids or to waive any informalities or technicalities in the bidding.

No bid shall be withdrawn for a period of sixty (60) consecutive calendar days subsequent to the opening of bids without the consent of the Quincy Housing Authority.

BY ORDER OF  
QUINCY HOUSING AUTHORITY

BY: Jerry Gille  
Title: Executive Director

BIDS FOR COMPLETE CONSTRUCTION OF  
LEAD BASED PAINT REMEDIATION AT: INDIAN HILLS (IL 16-1)  
QUINCY HOUSING AUTHORITY  
QUINCY, ILLINOIS

FORM OF BID

To the Quincy Housing Authority, Quincy, Illinois

Gentlemen:

The undersigned, having familiarized (himself) (themselves) with the local conditions affecting the cost of the work, and with the Specifications (including Advertisement for Bids, Instructions to Bidders, this bid, the form of Bid Bond, the form of Non-Collusive Affidavit, the form of Contract, and the form of Performance and Payment Bond or Bonds, the General Conditions, the Special Conditions, the Supplementary Conditions, the General Requirements, the Technical Specifications and the Drawings and Addenda, if any thereto, as prepared by Architechnics on file in the offices of the Quincy Housing Authority and the Architect, hereby proposes to furnish all labor, materials, equipment and services required to complete Lead Based Paint Remediation at: Indian Hills (IL 16-1); Architechnics Project No. 5810B, Quincy, Illinois, all in accordance herewith:

**BASE BID "A" – LEAD BASED PAINT REMEDIATION AT: INDIAN HILLS (IL 16-1)**

To provide and install all labor and material to complete work as indicated on the drawings and as specified herein:

- |   |          |
|---|----------|
| 1. Building "A" – 1 Bedroom Unit Remediation .....            | \$ _____ |
| 2. Building "A" – 4 Bedroom Unit Remediation .....            | \$ _____ |
| 3. Building "B" – 2 Bedroom Unit Remediation .....            | \$ _____ |
| 4. Building "C" – 1 Bedroom Unit (Lower) Remediation .....    | \$ _____ |
| 5. Building "C" – 1 Bedroom Unit (Upper) Remediation.....     | \$ _____ |
| 6. Building "C" – 2 Bedroom Unit Remediation .....            | \$ _____ |
| 7. Building "C" – 3 Bedroom Unit Remediation .....            | \$ _____ |
| 8. Building "D" – 1 Bedroom Unit (Lower) Remediation .....    | \$ _____ |
| 9. Building "D" – 1 Bedroom Unit (Upper) Remediation.....     | \$ _____ |
| 10. Building "D" – 2 Bedroom Unit Remediation .....           | \$ _____ |
| 11. Building "D" – 3 Bedroom Unit Remediation .....           | \$ _____ |
| 12. Building "E" – 2 Bedroom Unit (Typical) Remediation ..... | \$ _____ |
| 13. Building "E" – 2 Bedroom Unit (Ends) Remediation .....    | \$ _____ |

**TOTAL OF ALL UNIT REMEDIATION COSTS.....\$ \_\_\_\_\_**

**UNIT PRICES:**

- |                                   |          |        |
|-----------------------------------|----------|--------|
| 14. Mechanical Room Ceilings..... | \$ _____ | / S.F. |
| 15. Stair Stringers.....          | \$ _____ | each   |
| 16. Stair Railings.....           | \$ _____ | each   |

FORM OF BID

17. Stair Risers.....	\$	_____	each
18. Pipes.....	\$	_____	/ L.F.
19. Floors.....	\$	_____	/ S.F.
20. Window Frames.....	\$	_____	each
21. Radiators.....	\$	_____	each
22. Walls.....	\$	_____	/ S.F.
23. Ceilings.....	\$	_____	/ S.F.
24. Shelves.....	\$	_____	each
25. Shelf Supports.....	\$	_____	each

26. The bidder acknowledges receipt of the following ADDENDA:

NO. _____	DATED _____
NO. _____	DATED _____
NO. _____	DATED _____

27. If awarded the Contract for work on the project, bidder agrees to perform the work for Base Bid "A" in a timely manner. Work shall be performed on four (4) vacant units at a time within a one week time frame over the life of the contract.

28. In submitting this bid, it is understood that the right is reserved by the Quincy Housing Authority to reject any and all bids. If written notice of the acceptance of this bid is mailed, telegraphed, or delivered to the undersigned within sixty days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bond within ten (10) days after the contract is presented to him for signature.

29. Security in the sum of \_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_), in the form of \_\_\_\_\_  
is submitted herewith in accordance with the Specifications.

30. Attached hereto is an affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this proposal or any other proposal, or the submitting of proposals for the contract for which this proposal is submitted.

31. The bidder represents that he ( ) has, ( ) has not participated in a previous contract or subcontract subject to the equal opportunity clause prescribed by Executive Orders 10925, 11114, or 11246, or the Secretary of Labor; that he ( ) has, ( ) has not filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)

32. Certification of Nonsegregated Facilities. By signing this bid, the bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where

FORM OF BID

segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" 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 which 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. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000, that he will retain such certification in his files; and that he will forward a notice to his proposed subcontractors as provided in the instruction to bidders.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 100

Date \_\_\_\_\_, 20\_\_

Bidder:

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

Official Address:

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

Title: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(SIGN ORIGINAL ONLY)



BID BOND

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned,

\_\_\_\_\_  
(Name of Principal)

as PRINCIPAL, and

\_\_\_\_\_, as Surety  
(Name of Surety)

are held and firmly bound unto the Quincy Housing Authority, Quincy, Illinois hereinafter called the "QHA", in the penal sum of \_\_\_\_\_ DOLLARS, lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated \_\_\_\_\_, for

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after the said opening, and shall within the period specified therefore, or, if no period be specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with the QHA in accordance with the bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid, within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal shall pay the QHA the difference between the amount specified in said bid and the amount for which the QHA may procure the required work or supplies or both, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

FORM OF BID BOND

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In Presence of:

\_\_\_\_\_  
(SEAL) \_\_\_\_\_  
(Individual Principal)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(SEAL) \_\_\_\_\_  
(Individual Principal)

\_\_\_\_\_  
(Business Address)

Attest:

\_\_\_\_\_  
(Corporate Principal)

\_\_\_\_\_  
(Business Address)

Corporate By: \_\_\_\_\_ Affix  
Seal

Attest:

\_\_\_\_\_  
(Corporate Surety)

\_\_\_\_\_  
(Business Address)

Corporate By: \_\_\_\_\_ Affix



Seal

\_\_\_\_\_  
(Power-of-Attorney for person signing for surety company must be attached to bond).

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_

Secretary of the corporation named as Principal in the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal was then \_\_\_\_\_ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and on behalf of said corporation by authority of its governing body.

\_\_\_\_\_ (Corporate Seal)



FORM OF NON-COLLUSIVE AFFIDAVIT

A F F I D A V I T

(Prime Bidder)

State of \_\_\_\_\_) ss.  
County of \_\_\_\_\_)

\_\_\_\_\_, being first duly  
sworn, disposes and says:

That he is

\_\_\_\_\_  
(a partner or officer of the firm of, etc.)

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

\_\_\_\_\_  
Signature of:

Bidder, if the bidder is an individual;

Partner, if the bidder is a partnership;

Officer, if the bidder is a corporation.

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
My commission expires \_\_\_\_\_



## FORM OF CONTRACT

THIS AGREEMENT Made this \_\_\_\_ day of \_\_\_\_\_, in the year Two Thousand and Twenty by and between \_\_\_\_\_, a partnership consisting of \_\_\_\_\_ or individual trading as \_\_\_\_\_ hereinafter called the "Contractor", and Quincy Housing Authority  
540 Harrison Street,  
Quincy, Illinois 62301, hereinafter called the "QHA",

WITNESSETH, that the Contractor and the QHA, for the consideration stated herein, mutually agree as follows:

ARTICLE 1. Statement of Work. The Contractor shall furnish all labor materials, equipment, and services and perform and complete all work required for the Lead Based Paint Remediation at: Indian Hills (IL 16-1), Architechnics Project No. 5810B. Work includes related construction, in strict accordance with the Specifications and Addenda thereto numbered \_\_\_\_\_ and \_\_\_\_\_, dated \_\_\_\_\_ prepared by Architechnics which said Specifications, Addenda, and Drawings are incorporated herein by reference and made a part hereof.

ARTICLE 2. The Contract Price. The QHA shall pay the Contractor for the performance of the Contract, in current funds, subject to additions and deductions as provided in the Specifications, the sum of \_\_\_\_\_ Dollars. (\$ \_\_\_\_\_)

ARTICLE 3. Nondiscrimination. "During the performance of this contract, the Contractor agrees as follows.

"(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will 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 actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; of pay or other forms of compensation; and selection for training -- including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contraction officer setting forth the provisions of this nondiscrimination clause."

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin."

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

## FORM OF CONTRACT

(4) The contractor will comply with all provision of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States enter into such litigation to protect interests of the United States.

ARTICLE 4. Contract Documents. The Contract shall consist of the following component parts:

- a. This Instrument.
- b. General Conditions.
- c. Special Conditions.
- d. Supplementary Conditions.
- e. General Requirements.
- f. Technical Specifications.
- g. Drawings.

This instrument, together with the other documents enumerated in this Article 4, which said other documents are as fully a part of the Contract as if hereto or herein repeated, form the Contract. In the event that any provision of any other component part, the provision or the component part first enumerated in this Article 4 shall govern, except as otherwise specifically stated. The various provisions in Addenda shall be construed in the order of preference of the component part of the Contract which each modifies.

## FORM OF CONTRACT

IN WITNESS WHEREOF, the parties hereto have caused This Instrument to be executed in \_\_\_\_\_ original counterparts as of the day and year first above written.

\_\_\_\_\_  
(Contractor)

ATTEST:

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Business Address:

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City, State) (Zip Code)

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

QUINCY HOUSING AUTHORITY

\_\_\_\_\_  
(QHA)

By \_\_\_\_\_

Title \_\_\_\_\_

Business Address:

540 Harrison Street

Quincy, Illinois 62301

(Print or type the names underneath all signatures)

## FORM OF CONTRACT

### Certifications

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Contractor herein; that \_\_\_\_\_, who signed this Contract on behalf of the Contractor, was then \_\_\_\_\_ of said corporation; that said Contract was duly signed for and on behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate Seal:

\_\_\_\_\_  
\_\_\_\_\_

(Print or type the names underneath all signatures)

Attest:

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Business Address:

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City, State) (Zip Code)



## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

---

as Principal, hereinafter called Contractor, and

---

as Surety, hereinafter called Surety, are held and firmly bound unto the Quincy Housing Authority, 540 Harrison Street, Quincy, Illinois 62301 as Obligee, hereinafter called QHA, in the amount of

\_\_\_\_\_ Dollars, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated \_\_\_\_\_, entered into a contract with the QHA for the Lead Based Paint Remediation at Indian Hills (IL 16-1). Work includes related construction in accordance with Specifications and Drawings prepared by Architechnics, (Project No. 5810B) 510 Maine Street, Quincy, Illinois 62301 which contract is by reference made a part thereof, and is referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the QHA.

Whenever Contractor shall be, and declared by the QHA to be in default under the Contract, the QHA have performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions, or
- 2) Obtain a bid, or bids, for completing the Contract in accordance with its terms and conditions and upon determination by Surety of the lowest responsible bidder, or, if the QHA elects, upon determination by the QHA and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and the QHA, and make available as Work progresses (even though there should be a default or a succession of default under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the QHA to Contractor under the Contract and any amendments thereto, less the amount properly paid by the QHA to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
(Principal) (Seal)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Surety) (Seal)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)

The rate of premium on this bond is \$\_\_\_\_\_ per thousand.

The total amount of premium charged is \$\_\_\_\_\_.

CERTIFICATE AS A CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_

Secretary of the corporation named as Principal in the within bond; that \_\_\_\_\_

who signed the said bond on behalf of the Principal was then \_\_\_\_\_

of said corporation; that I know this signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and on behalf of said corporation by authority of its governing body.

\_\_\_\_\_  
(Corporate Seal)



FORM OF LABOR AND MATERIAL PAYMENT BOND

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

---

as Principal, hereinafter called Principal, and,  
as surety, hereinafter called Surety, are held and firmly bound into the Quincy  
Housing Authority, 540 Harrison Street, Quincy, Illinois 62301, as Obligee,  
hereinafter called the QHA, for the use and benefit of claimants as herein below  
defined, in the amount of \_\_\_\_\_ Dollars, for the payment  
whereof Principal and Surety bind themselves, their heirs, executors,  
administrators, successors and assigns, jointly and severally, firmly by these  
presents.

WHEREAS

Principal has by written agreement dated \_\_\_\_\_,  
entered into a contract with the QHA for the Lead Based Paint Remediation at  
Indian Hills (IL 16-1). Work includes Work in accordance with Specifications and  
Drawings prepared by Architechnics, (Project No.5810B), 510 Maine Street,  
Quincy, IL 62301, which contract is, by reference, made a part hereof, and is  
hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if  
Principal shall promptly make payment to all claimants as hereinafter defined, for  
all labor and material used or reasonably required for use in the performance of  
the Contract, then this obligation shall be void; otherwise, it shall remain in force  
and effect, subject, however, to the following conditions.

1. A claimant is defined as one having a direct contract with the Principal or with  
a Subcontractor of the Principal for labor, material, or both, used or  
reasonably required for use in the performance of the Contract, labor and  
material being construed to include that part of water, gas, power, light, heat,  
oil, gasoline, telephone service, or rental of equipment directly applicable to  
the Contract.
2. The above named Principal and Surety hereby jointly and severally agree  
with the QHA that every claimant as herein defined, who has not been paid in  
full before the expiration of a period of ninety (90) days after the date on  
which the last of such claimant's work or labor was done or performed, or  
materials were furnished by such claimant, may sue on this bond for the use  
of such claimant, prosecute the suit to final judgment for such sum or sums  
as may be justly due claimant, and have execution thereon. The QHA shall  
not be liable for the payment of any costs or expenses of any such suit.

FORM OF LABOR AND MATERIAL PAYMENT BOND

3. No suit or action shall be commenced hereunder by any claimant:
  - a. Unless claimant, other than one having a direct contract with the Principal shall have given written notice to any two of the following: the Principal, the QHA, or the Surety above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail; postage prepaid, in an envelope addressed to the Principal, the QHA or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
  - b. After the expiration of one (1) year following the date on which Principal ceased work on said contract, it being undersigned, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed; to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - c. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.
4. The amount of this bond shall be reduced by and to the extent of any payment of payments made in good faith hereunder, inclusive of the payment by Surety of mechanics liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

FORM OF LABOR AND MATERIAL PAYMENT BOND

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
(Principal) (Seal)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Surety) (Seal)

\_\_\_\_\_  
(Title)

The rate of premium on this bond is \$\_\_\_\_\_ per thousand.

The total amount of premium charged is \$\_\_\_\_\_.

FORM OF LABOR AND MATERIAL PAYMENT BOND

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_

Secretary of the corporation named as Principal in the within bond; that  
\_\_\_\_\_,

who signed the said bond on behalf of Principal, was then \_\_\_\_\_

of said corporation; that I know this signature, and his signature thereto is  
genuine; and that said bond was duly signed, sealed, and attested to for an on  
behalf of said corporation by authority of its governing body.



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

**Instructions to Bidders for Contracts  
Public and Indian Housing Programs**



# Instructions to Bidders for Contracts Public and Indian Housing Programs

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### 1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled *Site Investigation and Conditions Affecting the Work of the General Conditions of the Contract for Construction*). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

(h) If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

### 2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

### 3. Amendments to Invitations for Bids

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

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

(c) Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

### 4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

- (1) Integrity;
- (2) Compliance with public policy;
- (3) Record of past performance; and
- (4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

## 5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid 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 PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(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 observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

(c) The only acceptable evidence to establish the date of mailing of a late bid, 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 and the bid, 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, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

(e) The only acceptable evidence to establish the date of mailing of a late bid, 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, bidders should request the postal clerk to place a legible hand cancellation bull's-eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

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

(g) Bids 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 the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

## 6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

## 7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

(c) All protests shall be resolved in accordance with the PHA's/IHA's protest policy and procedures, copies of which are maintained at the PHA/IHA.

## 8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA's/IHA's available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA's/IHA's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA's/IHA's available funding. If upon the application of all deductibles, no bid is within the PHA's/IHA's available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the PHA's/IHA's written policy and procedures.

(d) The PHA/IHA may reject any and all bids, except other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA's/IHA's written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

The PHA/IHA may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

#### 9. Bid Guarantee (applicable to construction and equipment contracts exceeding \$25,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an Irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

#### 10. Assurance of Completion

a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

[ ] (1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

[ ] (2) separate performance and payment bonds, each for 50 percent or more of the contract price;

[ ] (3) a 20 percent cash escrow;

[ ] (4) a 25 percent irrevocable letter of credit; or,

[ ] (5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website <http://www.fms.treas.gov/c570/index.html>, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

#### 11. Preconstruction Conference (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

#### 12. Indian Preference Requirements (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean 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; and Indian "tribe" to mean 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.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

(c) If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph (c) above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is -

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement describing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to be used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

(k) The IHA ☐ does ☒ does not [Contracting Officer check applicable box] maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.

**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

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### 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)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

[insert full name of person(s) in the bidder'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)

## INFORMATION FOR BIDDERS

### SUPPLEMENT NO. 1

### EQUAL EMPLOYMENT OPPORTUNITY

Attention of Bidders is called to the requirement for ensuring that employees and applicants for employment are not discriminated against because of their race, creed, color, sex or national origin.

To ensure compliance with these requirements, prospective prime and subcontractors must develop a written Affirmative Action Program continuing goals and timetables for minority utilization by trade. The attached "Construction Contractor's Affirmative Action Program" format may be used for this purpose.

Bidders should submit a written Affirmative Action Program with their bids. Written plans are required from all prime and subcontractors with contracts of \$100,000.00 or more on projects of \$1,000,000.00 or more.

The successful Bidder will be requested to solicit bids for any subcontracts from available minority subcontractors, including circulation of bid invitation to minority contractor associations (Executive Order 11625).

CONSTRUCTION CONTRACTOR'S  
AFFIRMATIVE ACTION PROGRAM

CONTRACTOR'S NAME	PROJECT NAME
ADDRESS – ZIP CODE	PROJECT NUMBER
EEO OFFICER	PROJECT LOCATION (CITY, COUNTY, STATE)
AREA CODE – PHONE NUMBER	CONSTRUCTION STARTING & COMPLETION DATE
PERCENT MINORITY POPULATION IN THE PROJECT AREA	PERCENT MINORITY UNEMPLOYMENT IN THE PROJECT AREA

I. GOALS AND TIMETABLES

- A. In Table 1 (attached), a racial breakdown by job category of our present workforce on a company-wide basis (all federal and non-federal contracts in the State of Illinois) is provided.
- B. In Table 2 (attached), we set forth our company's goals and timetables for minority utilization. Each job category or skilled trade in our company's total workforce is listed in Column 1. The percentage goals that the applicant sponsor committed to, prior to receiving HUD approval for this project, are given in Column 2. we state our percentage goals for minority employment by trade in Column 3.

In Column 4, we estimate the total number of employees in our state-wide workforce by job category or trade for the date our commitment is to be achieved. In Column 5, we estimate the total number of minority employees state-wide for the same job category or trade, and for the same date. This date is given in Column 6.

We understand that in order to be considered responsive bidders, our company's goals for minority manpower utilization must fall at least within the ranges set forth in the Applicant/Sponsor's Minority Utilization Commitment, and the Area Plan Bid Conditions (where applicable).

II. SPECIFIC AFFIRMATIVE ACTION STEPS

\_\_\_\_\_ agrees to  
name of Contractor  
implement the following specific affirmative action steps directed at increasing minority manpower utilization:

- A. To notify community organizations that our company has employment opportunities available and to maintain records of the organizations' responses.
- B. To maintain a file of the names and addresses of each minority worker referred to us and what action was taken with respect to each such referred worker, and if the worker was not employed, the reason therefore. If such works was not set to the union hiring hall for referral or if such works was not employed by us, our file shall document this and the reasons therefore.

- C. To notify the HUD Area Office promptly when the union or unions with whom we have a collective bargaining agreement have not referred to us a minority worker set by us, or when we have other information that the union referral process has impeded us in our efforts to meet our goal.
- D. To participate in training programs in the area, especially those funded by the Department of Labor.
- E. To disseminate our EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority news media; and by notifying and discussing it with all subcontractors and suppliers.
- F. To disseminate our EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority news media; and by notifying and discussing it with all subcontractors and suppliers.
- G. To make specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations and minority training organizations, within our company's recruitment area.
- H. To make specific efforts to encourage present minority employees to recruit their friends and relatives.
- I. To validate all man specifications, selection requirements, tests, etc.
- J. To make every effort to promote after-school, summer and vacation employment to minority youth.
- K. To develop on-the-job training opportunities and participate and assist in any association or employee-group training programs relevant to our employee needs consistent with our adopted goals and timetables.
- L. To inventory and evaluate continually minority personnel for promotion opportunities and to encourage minority employees to seek such opportunities.

- M. To make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.
- N. To make certain that all facilities and company activities are non-segregated.
- O. To monitor continually all personnel activities to ensure that our EEO policy is being carried out.
- P. To solicit bids for subcontracts for available minority subcontractors, including circulation of bid invitations to minority contractor associations.

III. Given below is the name, title, address and phone number of the person appointed by the applicant/sponsor who will be responsible for submitting the Monthly Manpower Utilization Report, OMB Form 44-R 1396.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

As officers and representatives of \_\_\_\_\_  
Name of Contractor

We the undersigned have read and fully agree to this Affirmative Action Program, and become a party to the full implementation of this program.

Signature\_\_\_\_\_

Title\_\_\_\_\_ Date\_\_\_\_\_

Signature\_\_\_\_\_

Title\_\_\_\_\_ Date\_\_\_\_\_

Signature\_\_\_\_\_

Title\_\_\_\_\_ Date\_\_\_\_\_

TABLE 2

GOALS AND TIMETABLES FOR MINORITY\* UTILIZATION

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Job Category Or Skilled Trade	Sponsor's Minority Utilization Commitment	Sponsor's Minority Utilization Commitment	Estimated Total Employees	Estimated Total Employees	Date Commitment to be Achieved

\*Minority Means Negro,  
Spanish American,  
American Indian  
Oriental

\_\_\_\_\_  
Company

\_\_\_\_\_  
E.E.O. Officer (Signature)

\_\_\_\_\_  
Date



TABLE 1  
CURRENT WORKFORCE BREAKDOWN

FOR: \_\_\_\_\_  
Month                  Day          Year

Company: \_\_\_\_\_

Minority Employees

Job Category	# of Employees / # Female		Negro	Spanish American	American Indian	Oriental
Officers/Supervisors						
Professional						
Technicians						
Housing Sales/ Rental/Management						
Office/Clerical						
Service Workers						
Others						

Trade:

Journeyman						
Helpers						
Apprentices						
Trainees						
Other						

Trade:

Journeyman						
Helpers						
Apprentices						
Trainees						
Other						

TOTAL:



# Previous Participation Certification

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

U.S. Department of Agriculture  
Farmers Home Administration

OMB Approval No. 2502-0118  
(exp11/30/2012)

<b>Part I To be completed by Principals of Multifamily Projects. See Instructions Reason for Submitting Certification</b>			<b>For HUD HQ/FmHA use only</b>	
1. Agency Name and City where the application is filed			2. Project Name, Project Number, City and Zip Code contained in the application	
3. Loan or Contract Amount	4. Number of Units or Beds	5. Section of Act	6. Type of Project (check one) <input type="checkbox"/> Existing <input type="checkbox"/> Rehabilitation <input type="checkbox"/> Proposed (New)	

List of UI dropped Principal Participants and attach organization chart for all organizations.			
7. Names and Addresses of All Known Principals and Affiliates (people, businesses & organizations) proposing to participate in the project described above. (list names alphabetically; last, first, middle initial)	8. Role of Each Principal in Project	9. Expected % Owner ship Interest in Project	10. Social Security or IRS Employer Number

Certifications: I (meaning the individual who signs as well as the corporations, partnerships or other parties listed above who certify) hereby apply to HUD or USDA FmHA, as the case maybe, for approval to participate as a principal in the role and project listed above based upon my following previous participation record and this Certification. Verify that neither you nor any of your principals or affiliates have ever been found to be in noncompliance with any applicable fair housing and civil rights requirements in 24 CFR 5.105 (a). If you or any of your principals or affiliates have been found to be in noncompliance with any such requirements, attach a signed statement explaining the relevant facts, circumstances, and resolution, if any. I certify that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and Exhibits signed by me and attached to this form. **Y ctplpi** < HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31U.S.C. 3729, 3802) I further certify that:

1. Schedule A contains a listing of every assisted or

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

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

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

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

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

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

e. I have not been convicted of a felony and am not presently, to my knowledge, the subject of a

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

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

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

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

4. I am not a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined "in Standards of Ethical Conduct"for Employees of the Executive Branch in 5C.F.R. Part 2635 (57 FR 35006) and HUD's Standard of Conduct in 24 C.F.R. Part 2 and USDA's Standard of Conduct in 7 C.F.R. Part 2 Subpart B.

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

6. To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any applicable fair housing and civil rights requirements in 24 CFR 5.107(a).

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

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

Typed or Printed Name of Principal	Signature of Principal	Certification Date (mm/dd/yyyy)	Area Code and Telephone No.

This form was prepared by (Please print name)	Area Code and Telephone No.
---	-----------------------------

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

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

**Part II – For HUD Internal Processing Only**

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

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

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

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

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

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

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

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

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

## Who Must Sign and File Form HUD-2530:

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

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

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

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

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

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

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

- Projects to be financed with mortgages insured under the National Housing Act (FHA).
- Projects to be financed according to Section 202 of the Housing Act of 1959 (Elderly and Handicapped).
- Projects in which 20 percent or more of the units are to receive a subsidy as described in 24 C.F.R. 200.213.
- Purchase of a project subject to a mortgage insured or held by the Secretary of HUD.
- Purchase of a Secretary-owned project.
- Proposed substitution or addition of a principal, or principal participation in a different capacity from that previously approved for the same project.
- Proposed acquisition by an existing limited partner of an additional interest in a project resulting in a total interest of 25 percent or more, or proposed acquisition by a corporate stockholder of an additional interest in a project resulting in a total interest of 10 percent or more.
- Projects with U.S.D.A., Farmers Home Administration, or with state or local government housing finance agencies that include rental assistance under Section 8 of the Housing Act of 1937. For projects of this type, form HUD-2530 should be filed with the appropriate applications directly to those agencies.

**Review of Adverse Determination:** If approval of your participation in a HUD project is denied, withheld, or conditionally granted on the basis of your record of previous participation, you will be notified by the HUD Office. You may request reconsideration by the HUD Review Committee. Alternatively, you may request a hearing before a Hearing Officer. Either request must be made in writing within 30 days from your receipt of the notice of determination.

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

## Specific Line Instructions:

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

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

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

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

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

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

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

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

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

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

**Instructions for Completing Schedule A:**

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

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

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

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

**Column 5** Explain any project defaults during your participation.

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

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

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

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

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

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

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

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

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

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

**Certification:**

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

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

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

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

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

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

**Public reporting burden** for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

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

# General Conditions for Construction Contracts - Public Housing Programs

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

Office of Public and Indian Housing  
OMB Approval No. 2577-0157 (exp. 01/31/2014)

**Applicability. This form is applicable to any construction/development contract greater than \$100,000.**

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.36, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.

Public reporting burden for this collection of information is estimated to average 1.0 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. Responses to the collection of information are required to obtain a benefit or to retain a benefit.

The information requested does not lend itself to confidentiality.

HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number.

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## 1. Definitions

- (a) "Architect" means the person or other entity engaged by the PHA to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a PHA uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.
- (b) "Contract" means the contract entered into between the PHA and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders (form HUD-5370), these General Conditions of the Contract for Construction (form HUD-5370), the applicable wage rate determinations from the U.S. Department of Labor, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.
- (c) "Contracting Officer" means the person delegated the authority by the PHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the PHA in all dealings with the Contractor.
- (d) "Contractor" means the person or other entity entering into the contract with the PHA to perform all of the work required under the contract.
- (e) "Drawings" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.
- (f) "HUD" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the PHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the PHA for payment to the Contractor. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.
- (g) "Project" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.
- (h) "PHA" means the Public Housing Agency organized under applicable state laws which is a party to this contract.
- (i) "Specifications" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.
- (l) "Work" means materials, workmanship, and manufacture and fabrication of components.

## 2. Contractor's Responsibility for Work

- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the PHA pursuant to the clause entitled Availability and Use of Utility Services herein.
- (b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least [ ] (12 percent unless otherwise indicated) of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the PHA.
- (c) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.
- (d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.
- (e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.
- (f) The Contractor shall confine all operations (including storage of materials) on PHA premises to areas authorized or approved by the Contracting Officer.
- (g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.
- (h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

## 3. Architect's Duties, Responsibilities, and Authority

- (a) The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.



- (b) The Architect shall serve as the Contracting Officer's technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the Changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) changes any of the other express terms or conditions of the contract.
- (c) The Architect's duties and responsibilities may include but shall not be limited to:
- (1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor's designated representative at the site;
  - (2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;
  - (3) Reviewing and making recommendations with respect to - (i) the Contractor's construction progress schedules; (ii) the Contractor's shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor's price breakdown and progress payment estimates; and,
  - (4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

#### 4. Other Contracts

The PHA may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with PHA 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 by PHA employees

### Construction Requirements

#### 5. Pre-construction Conference and Notice to Proceed

- (a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the PHA, its Architect, and other interested parties convened by the PHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The PHA will provide the Contractor with the date, time, and place of the conference.
- (b) The contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

#### 6. Construction Progress Schedule

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.
- (b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled Inspection and Acceptance of Construction, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the PHA. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.
- (c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

#### 7. Site Investigation and Conditions Affecting the Work

- (a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is



reasonably ascertainable from an inspection of the site, including all exploratory work done by the PHA, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the PHA.

- (b) The PHA assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the PHA. Nor does the PHA assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

#### 8. Differing Site Conditions

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.
  - (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor's risk, until the Contracting Officer has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the PHA within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.
  - (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.
  - (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.
- promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.
- (b) Wherever in the specifications or upon the drawings the words 'directed', 'required', 'ordered', 'designated', 'prescribed', or words of like import are used, it shall be understood that the 'direction', 'requirement', 'order', 'designation', or 'prescription', of the Contracting Officer is intended and similarly the words 'approved', 'acceptable', 'satisfactory', or words of like import shall mean 'approved by', or 'acceptable to', or 'satisfactory to' the Contracting Officer, unless otherwise expressly stated.
  - (c) Where 'as shown', 'as indicated', 'as detailed', or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word 'provided' as used herein shall be understood to mean 'provide complete in place' that is 'furnished and installed'.
  - (d) 'Shop drawings' means drawings, submitted to the PHA by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The PHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
  - (e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the PHA's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.
  - (f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.
  - (g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be

requests may be submitted as the need arises, but each



such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

- (h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the PHA and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.
- (i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 10. As-Built Drawings

- (a) 'As-built drawings,' as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. 'As-built drawings' shall be synonymous with 'Record drawings.'
- (b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent as-built drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.
- (c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all as-built drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 11. Material and Workmanship

- (a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.
- (b) Approval of equipment and materials.
- (1) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment.
- waivers. Before installing the work, the Contractor shall

When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

- (2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's expense, with all shipping charges prepaid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor's name, and the identification of the construction project for which the material or product is intended to be used.

- (3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.
- (4) Approval of a sample shall not constitute a waiver of the PHA right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.
- (5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of retesting materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.
- (6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.
- (c) Requirements concerning lead-based paint. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

#### 12. Permits and Codes

- (a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any
- examine the drawings and the specifications for

compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled Changes herein to conform to the code or regulation.

- (b) The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work. Where the PHA can arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor, the contract amount shall be reduced accordingly.

### 13. Health, Safety, and Accident Prevention

- (a) In performing this contract, the Contractor shall:
  - (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
  - (2) Protect the lives, health, and safety of other persons;
  - (3) Prevent damage to property, materials, supplies, and equipment; and,
  - (4) Avoid work interruptions.
- (b) For these purposes, the Contractor shall:
  - (1) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and
  - (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.
- (c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.
- (d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.
- (e) The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the PHA, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

- (f) New work which connects to existing work

### 14. Temporary Heating

The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to the PHA in the condition and at the time required by the specifications.

### 15. Availability and Use of Utility Services

- (a) The PHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the PHA or, where the utility is produced by the PHA, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.
- (b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the PHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

### 16. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

- (a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.
- (b) The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.
- (c) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.
- (d) The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
- (e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.

shall correspond in all respects with that to which it



connects and/or be similar to existing work unless otherwise required by the specifications.

- (g) No structural members shall be altered or in any way weakened without the written authorization of the Contracting Officer, unless such work is clearly specified in the plans or specifications.
- (h) If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refinishing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refinishing or reconstruction is specified in the plans or specifications.
- (i) The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work.
- (j) The Contractor shall indemnify and save harmless the PHA from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the PHA may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.
- (k) The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

#### 17. Temporary Buildings and Transportation of Materials

- (a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the PHA. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.
- (b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### 18. Clean Air and Water

The contractor shall comply with the Clean Air Act, as

- (f) The PHA may conduct routine inspections of the construction site on a daily basis.

amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

#### 19. Energy Efficiency

The Contractor shall comply with 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 the contract is performed.

#### 20. Inspection and Acceptance of Construction

- (a) Definitions. As used in this clause -
  - (1) "Acceptance" means the act of an authorized representative of the PHA by which the PHA approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.
  - (2) "Inspection" means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.
  - (3) "Testing" means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to PHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) PHA inspections and tests are for the sole benefit of the PHA and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the PHA after acceptance of the completed work under paragraph (j) below.
- (d) The presence or absence of the PHA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer's written authorization. All instructions and approvals with respect to the work shall be given to the Contractor by the Contracting Officer.
- (e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The PHA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The PHA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.
- (g) The Contractor shall, without charge, replace or correct work found by the PHA not to conform to

contract requirements, unless the PHA decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

- (h) If the Contractor does not promptly replace or correct rejected work, the PHA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.
- (i) If any work requiring inspection is covered up without approval of the PHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the PHA considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (j) The Contractor shall notify the Contracting Officer, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Architect determines that the state of preparedness is as represented, the PHA will promptly arrange for the inspection. Unless otherwise specified in the contract, the PHA shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the PHA's right under any warranty or guarantee.

## 21. Use and Possession Prior to Completion

- (a) The PHA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the PHA intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The PHA's possession or use shall not be deemed an acceptance of any work under the contract.
- (b) While the PHA has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the PHA's possession or use, notwithstanding the terms of the clause entitled Permits and Codes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas occupied without proper remuneration therefore. If prior possession or use by the PHA delays the progress of the
- (h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the

work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

## 22. Warranty of Title

The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

## 23. Warranty of Construction

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of \_\_\_\_\_ (one year unless otherwise indicated) from the date of final acceptance of the work. If the PHA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the PHA takes possession.
- (b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—
  - (1) The Contractor's failure to conform to contract requirements; or
  - (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.
- (c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for (one year unless otherwise indicated) from the date of repair or replacement.
- (d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the PHA shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
  - (1) Obtain all warranties that would be given in normal commercial practice;
  - (2) Require all warranties to be executed in writing, for the benefit of the PHA; and,
  - (3) Enforce all warranties for the benefit of the PHA.
- (g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the



repair of any damage that results from any defect in PHA furnished material or design.

- (i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and (c) above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.
- (j) This warranty shall not limit the PHA's rights under the Inspection and Acceptance of Construction clause of this contract with respect to latent defects, gross mistakes or fraud.

#### 24. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

#### Administrative Requirements

##### 25. Contract Period

The Contractor shall complete all work required under this contract within \_\_\_\_\_ calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the Contracting Officer.

##### 26. Order of Provisions

In the event of a conflict between these General Conditions and the Specifications, the General Conditions shall prevail. In the event of a conflict between the contract and any applicable state or local law or regulation, the state or local law or regulation shall prevail; provided that such state or local law or regulation does not conflict with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

##### 27. Payments

- (a) The PHA shall pay the Contractor the price as provided in this contract.
- (b) The PHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The PHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.
- (c) Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Contracting Officer, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining progress payments. The breakdown shall be approved by the Contracting Officer and must be Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that (1) it has

acceptable to HUD. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract.

- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the contract price. Such estimates shall be submitted not later than \_\_\_\_\_ days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.
- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made: I hereby certify, to the best of my knowledge and belief, that:

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

- (f) Except as otherwise provided in State law, the PHA shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the contract; except, that if upon completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect, determines that the Contractor's performance and progress are satisfactory, the PHA may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor's performance and progress are unsatisfactory, the PHA shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.
- (g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments.

acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Contracting



Officer; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Contracting Officer may require to assure the protection of the PHA's interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the PHA.

- (h) All material and work covered by progress payments made shall, at the time of payment become the sole property of the PHA, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the PHA to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the PHA in the course of their employment, the Contractor shall restore such damaged work without cost to the PHA and to seek redress for its damage only from those who directly caused it.
- (i) The PHA shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the PHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.
- (j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.
- (k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bonds furnished under this contract.

## 28. Contract Modifications

- (a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or responsibilities of the parties (e.g., change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the
  - (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit

Contractor and the Contracting Officer.

- (c) When a proposed modification requires the approval of HUD prior to its issuance (e.g., a change order that exceeds the PHA's approved threshold), such modification shall not be effective until the required approval is received by the PHA.

## 29. Changes

- (a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) PHA-furnished facilities, equipment, materials, services, or site; or,
  - (4) Directing the acceleration in the performance of the work.
- (b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.
- (c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:
  - costs (identified with specific work to be performed);
  - Construction equipment exclusively necessary for the change;
  - Costs of preparation and/ or revision to shop drawings resulting from the change;
  - Worker's



Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs when size of change warrants revision.

- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.

- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

### 30. Suspension of Work

- (a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the PHA.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have

been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.

- (c) A claim under this clause shall not be allowed (1) for any proceed with the work (or separable part of the work) that has been delayed. In this event, the PHA may take over the work and complete it, by contract or otherwise, and

costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

### 31. Disputes

- (a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (b) Except for disputes arising under the clauses entitled Labor Standards - Davis Bacon and Related Acts, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (c) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (d) The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.
- (f) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

### 32. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to

may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall

be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if—

- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the PHA or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the PHA, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
- (2) The Contractor, within days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.

- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the PHA.

### 33. Liquidated Damages

- (a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to the PHA as liquidated damages, the sum of \$ \_\_\_\_\_ [Contracting Officer insert amount] for each day of delay. If different completion dates are specified in the contract for separate parts or stages of the work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that the Contractor's delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due the PHA. The Contractor remains liable for damages caused other than by delay.
- (b) If the PHA terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final

completion of the work together with any increased costs occasioned the PHA in completing the work.

- (c) If the PHA does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

### 34. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

### 35. 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 PHA under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by the Contracting Officer.

### 36. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:
- (1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.
  - (2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$ \_\_\_\_\_ [Contracting Officer insert amount]

per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract.

- (3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$\_\_\_\_\_ [Contracting Officer insert amount] per occurrence.
- (b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.
- (c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

### 37. Subcontracts

- (a) Definitions. As used in this contract -
  - (1) "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

(2) "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Contractor or another subcontractor.

- (b) The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.
- (c) The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.
- (d) The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.
- (e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the PHA or between the subcontractor and HUD.

### 38. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

The Contractor shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and
- (e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

### 39. 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, national origin, or handicap.
- (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, national origin, or handicap. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.



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- (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, national origin, or handicap.
- (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, Section 503 of the Rehabilitation Act of 1973, 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 subcontract 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.
- (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.
- 40. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.**
- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
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#### 41. Interest of Members of Congress



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

#### **42. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees**

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

#### **43. Limitations on Payments made to Influence Certain Federal Financial Transactions**

- (a) The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) The Contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) 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 in connection with a Federal contract, grant, loan, or cooperative agreement.

#### **44. Royalties and Patents**

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

#### **45. Examination and Retention of Contractor's Records**

be posted at all times by the Contractor and its

- (a) The PHA, 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 (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the PHA, 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.

#### **46. Labor Standards - Davis-Bacon and Related Acts**

If the total amount of this contract exceeds \$2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

- (a) Minimum Wages.
  - (1) All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall subcontractors at the site of the work in a prominent and



accessible place where it can be easily seen by the workers.

(2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized

representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

(3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the

amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or

program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

(c) Payrolls and basic records.

(1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.



- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;
- (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to

- make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (d) (1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under



- the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- (e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.
- (f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.
- (i) Certification of eligibility.
- (1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor'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).
- (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (3) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.
- (j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.
- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.
- (3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.
- (k) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.



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#### 47. Non-Federal Prevailing Wage Rates

- (a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds: (1) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

#### 48. 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.



## SPECIAL CONDITIONS

PROJECT/SITE – Lead Based Paint Remediation at Indian Hills (IL 16-1).

- The Base Bid "A" Project will include, but not necessarily limited to:
  - Lead based paint remediation in existing dwelling units

Quincy Housing Authority  
Quincy, Illinois  
ARCHITECTNICS PROJECT NO. 5810B

### 2. TIME FOR PROJECT START UP AND PROJECT COMPLETION

The work shall be commenced at the time stipulated in the Notice to Proceed to the Contractor.

Work for Base Bid "A" shall be performed on four (4) vacant units at a time within a one week time frame over the life of the contract.

### 3. LIQUIDATED DAMAGES

Since the Contract Time Period is reasonable, and since the Q.H.A. could suffer damage, based on hazardous pedestrian conditions, related to an over extended construction period; the project should be substantially completed within the Project Completion Time, as stated above.

Liquidated damages for noncompliance with the stated Project Completion Time shall be as follows:

Fifty Dollars (\$50.00) per day, each consecutive calendar day beyond the specified substantial completion date.

### 4. COMMUNICATIONS

- A. All notices, demands, requests, instructions, approvals, proposals, and claims must be in writing.
- B. Any notice or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the contract or at such other office as he may, from time to time, designate in writing to the QHA or deposited in the United States mail in a sealed, postage prepaid envelope, or if delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.
- C. All papers required to be delivered to the QHA or Architect shall, unless otherwise specified in writing to the Contractor, be delivered to the Architect at ARCHITECTNICS, 510 Maine Street, Quincy, Illinois 62301 and any notice to, or demand upon, the QHA or Architect shall be sufficiently given if so delivered, or deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said Architect at such address, or to such other

representatives of the QHA, or to such other address as the QHA may subsequently specify in writing to the Contractor for such purpose.

- D. Any such notice shall be deemed to have been given as of the time of actual delivery; or, in the case of mailing, when the same should have been received in due course of post; or, in the case of telegrams, at the time of actual receipt.

5. SIGNS

- A. Subject to prior approval of the QHA or Architect as to size, design, type, and location, and to local regulations, the Contractor and his subcontractors may erect temporary signs for purposes of identification and controlling traffic. The Contractor shall furnish, erect, and maintain such signs as may be required by safety regulations and as necessary to safeguard life and property.

6. JOB FACILITIES

- A. The contractor shall furnish and maintain, during construction of the project, adequate facilities at the site as follows:

- (1) Storage: If acceptable to the QHA, assigned space within the existing building may be used for storage. The contractor shall make all necessary arrangements with the QHA regarding parking of trailers, etc.
- (2) Sanitary Arrangements: Toilet facilities are available in the existing building for reasonable use of contractor's personnel during construction. Verify exact location of toilet facilities with the office of the Executive Director.
- (3) Temporary Wiring: The contractor shall provide all necessary temporary connections for equipment, etc., as required. Power source shall be from distribution system within the building and cost of current used shall be born by the QHA. If, in the Architect's opinion, an unusual, or excessive amount, of current is used due to negligence, the contractor shall be backcharged accordingly.

7. MINIMUM RATES OF PAY

A schedule of the minimum rates of pay applicable to the contractor is attached.

8. BUY AMERICAN EXCEPTIONS

The following article, materials, and supplies have been excepted by HUD from the provisions of the General Conditions headed "Buy American":

Antimony; Asbestos; Carnauba Wax; China Wood Oil (tug oil); Chromium; Cork; Flax; Hemp; Jute; Karigum; Lac; Manganese Ore (35% and over); Mercury; Mica; Native asphalt; Natural nickel alloy of copper; Natural rubber, Nickel; Platinum; Silk; Sisal; Tin; Titanium; Tungsten.

9. AMENDMENTS TO GENERAL CONDITIONS

The following Amendments modify, change, delete from or add to the General Conditions. Where any Paragraph of the General Conditions is modified or any Subparagraph or Clause thereof is modified or deleted by these supplements, the unaltered provisions of that Paragraph, Subparagraph, or Clause shall remain in effect.

PARAGRAPH 27 - PAYMENTS

Add the following Subparagraph:

- e.(4) Each Application for Payment, following the first submittal, shall be accompanied by signed and notarized waivers of lien from the prime contractor for the total amount previously paid and individual lien waivers from each subcontractor and material supplier based upon the amounts previously drawn from each category of work.

PARAGRAPH 36 - INSURANCE

Expand Paragraph 36d as follows:

Include the QHA, the Contractor, and the Architect as named insured on all insurance policies required to be purchased under provisions of these Contract Documents. The insurance herein required for the protection of the Owner and the Architect shall include, but shall not be limited to, the liability of the Owner and the Architect created by, in and under the Structural Work Act, commonly known as, the Scaffold Act of the State of Illinois.

ADD THE FOLLOWING PARAGRAPHS

50. EXISTING CONDITIONS

- a. Bidders shall carefully check the drawings and compare with existing conditions to ascertain the full amount of work involved. The contractor will be required to execute all labor and provide all material to carry out all the work required to obtain the results as indicated on the drawings and in the specifications, whether each and every item is mentioned or not. No additional compensation will be allowed for such work or materials as are not shown on the drawings and/or specified, but which are required to obtain the above mentioned results.

51. REMOVAL

- a. The Contractor shall accept the premises as he finds them upon the signing of the contract. He shall completely remove the existing work so indicated on the drawings, and/or as specified and as may be required to permit the proper installation of new work.

52. INDEMNIFICATION

The Contractor shall indemnify and hold harmless the Owner and the Architect and their agents and employees from and against all claims, damages losses and expenses including attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense is (a) attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (b) caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it its cause in part by a party indemnified hereunder to the extent permitted by law.

In any and all claims against the Owner or the Architect or any of their agents, or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Workmen's Compensation acts, disability benefit acts, or other employee benefit acts.

The obligations of the Contractor under this paragraph shall not extend to the liability of the Architect, his agents, or employees arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications, or (b) the giving of or the failure to give directions or instructions by the Architect, his agents, or employees provided such giving or failure to give is the primary cause of the injury or damage.

None of the foregoing provisions shall deprive the Owner or the Architect of any action, right or remedy otherwise available to them or either of them at common law.

10. PRE-CONSTRUCTION MEETING

After low bidders are identified and Contracts are awarded, a Pre-Construction Meeting will be scheduled at the site to coordinate efforts of all contractors, subcontractors, and Owners personnel.

11. ARCHITECT NOT RESPONSIBLE FOR EXISTING CONSTRUCTION

Architects cannot assume responsibility or liability of any of the existing construction.

Many decisions concerning the new construction for this Project used the existing Plans and Specification for the existing building as a basis for the new work. Much of this work is covered up or concealed behind existing construction, and is not available for verification. Only at the time of actual construction/demolition work will many of these conditions be verified.

Because of the complexity and detailed nature of the new work and remodeling work, and the reliability of existing infrastructure to actually be in place as it is presented to be, the Architect cannot assume operating and functioning condition of the various existing systems, infrastructure, and existing equipment.

Architechnics, Inc. cannot assume any responsibility or be held liable for accuracy of the existing construction drawings, plans, and specifications for the existing building. These Drawings were provided to Architechnics by the Owner, for use on this Project.

## 12. EXAMINATION OF SITE

The contractor shall carefully examine the site and scope of work. No pleas of ignorance of conditions that exist or that may hereafter exist, or of conditions or difficulties that may be encountered in the execution of the work as a result of failure to make a proper examination and investigation will be accepted as an excuse for any failure or omission on the part of the Contractor to fulfill in every detail all of the requirements of the Specifications and Drawings or will be accepted as a basis for any claims whatsoever for extra compensation.

To arrange for an examination of the site, contact Mr. Bruce Johnston, Quincy Housing Authority at (217) 222-0720, Ext 407.

## 13. FAMILIARIZATION WITH THE WORK

Before submitting his bid, the Contractor shall familiarize himself with the work, rules governing acceptance of his work, site where the work is performed, labor conditions, the conditions and facilities at the site for delivery and installation, all laws, regulations and other factors affecting performance of the work. The prospective bidder shall carefully correlate his observations with the requirements of the bidding documents and contract drawings, and otherwise satisfy himself of the expense and difficulties attending performance of the work, including delivery of material and equipment. The submission of a bid will constitute an incontrovertible representation by the bidder that he has complied with every requirement of this Article.

## 14. SPECIFIED MATERIALS AND EQUIPMENT

- a) No alterations or changes in the Plans, Specifications, or other instructions enclosed shall be permitted.
- b) Any prospective bidder who discovers ambiguities or is in doubt as to the true meaning of any part of the Bid Documents shall promptly request Architect for an interpretation thereof.

- c) Interpretations will be made only by Addenda, duly issued and copies of each Addendum will be mailed or delivered to each Bid Document holder of record.
- d) The bidder shall be solely responsible for any interpretation of the drawings and specifications other than by duly issued Addenda.
- e) Except such materials as definitely specified to be furnished by the Owner, the Contractor shall provide all materials, tools, automotive, and other construction equipment which may be necessary for the completion of the work described in the specifications. He shall keep a competent representative on the job and employ men skilled in the various phases of the work involved. All work shall be performed in a workmanlike manner.
- f) Products and manufacturers not named or specified herein may be included upon request in writing to the Architect at least seven (7) days prior to receipt of bids. Products and manufacturers not specifically named or specified in the Drawings, Specifications, or Addenda will not be considered for use on this Project.

15. PHASING OF PROJECT

This Project and its execution and construction shall be phased so as to accommodate on-going operation of the facility. Article 17 of this Section.

16. SUBSTANTIAL COMPLETION

Substantial completion is a condition which occurs when the Owner accepts the certification of the Architect that construction is sufficiently complete in accordance with the contract documents so that the Project or a designated portion thereof may be occupied for the use intended.

17. OCCUPANCY DURING CONSTRUCTION

In general, occupancy of the building by residents, employees, and the public shall continue during construction period. Contractor shall confine his work to a limited area of building at a time; all as prearranged and approved with each area occupant, their knowledge, and as prearranged and pre-approved by the Owner.

Electric or Mechanical service disruption to this area of the building shall be restricted to a minimal time period and as prearranged with each area occupant, and the Owner.

Special provisions shall be prearranged with Owner and Architect so that work shall be confined so as not to disrupt the facility. The Owner shall notify the contractor of any scheduled events or special dates that would affect the work.



18. AMERICANS WITH DISABILITIES ACT (A.D.A.)

Architechnics, to the best of its ability, has exercised professional efforts to interpret the intent of the "Americans with Disabilities Act" (A.D.A.), and other applicable Federal, State and Local Codes and requirements. Architechnics cannot guarantee total compliance with any work directly related to the A.D.A., when the Owner performs and/or authorizes work using these documents and/or drawings.

19. ASBESTOS ALERT

If asbestos materials are encountered, the Architect shall be notified immediately and a licensed Asbestos Contractor shall be engaged to complete asbestos abatement procedures. Quincy Housing Authority may contract separately with the Asbestos Contractor.

20. SHOP DRAWING SUBMITTAL REQUIREMENT ALERT

Certain sections of the specifications clearly indicate that preparation and submittal of detailed shop and equipment drawings are required before the Contractor may proceed with the work. No exception to this rule will be permitted on this project.

21. LIEN WAIVERS SUBMITTED WITH EVERY PAY REQUEST

Contractors shall submit Partial Lien Waivers with every progressive (monthly) pay request, and shall submit Final Lien Waivers in accordance with the General Conditions included herein.

22. ASSIGNMENT OF PROJECT COORDINATION

The Project Coordination will be the responsibility of the Base Bid Contractor.

23. ADDITIONAL INSURANCE REQUIREMENTS

An Umbrella, of Excess Liability, policy of not less than \$1,000,000. for any one occurrence and subject to the same aggregate over the Comprehensive Automobile Liability, Employee's Liability, Comprehensive General Liability, shall be required.

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## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by



the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.





## WAGE RATES FOR QUINCY HOUSING AUTHORITY PROJECTS

(Contractor is responsible for using latest Wage Determination on Bid Date)

To obtain Wage Rates for this project:

GO TO: [www.wagehour.dol.gov](http://www.wagehour.dol.gov)

US Department of Labor

- At about middle of page under WAGES:
- Click Prevailing Wages

Next Screen on right is box QUICK LINKS

- Click Wage Determinations Online (WDOL)

Next Screen Middle in Blue Header Bar; Davis Bacon Act

- Choose Selecting DBA WDs

Screen Comes up to

1. Select State
2. Select County
3. Choose Construction Type (*residential = 4 stories and under*)
4. Select WD # IL23 (comes up in next window)

CLICK [SEARCH] BOX

Step 3. Choose Construction Type (*building = 5 stories and above*)

Step 4. Select WD# IL1 (comes up in next window)

CLICK [SEARCH] BOX

Read information in window.

67. EQUAL EMPLOYMENT OPPORTUNITY

67.1 Compliance with the Illinois Human Rights Act:

During the performance of this contract, the Contractor shall comply in all respects with the Illinois Human Rights Act cited in Article 39 of the General Conditions and the Illinois Department of Human Rights' Rules and Regulations for Public Contracts including, but not limited to the following provisions:

- A. Affirmative Action and Nondiscrimination: The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap unrelated to ability, or unfavorable discharge from the military service (excluding dishonorable). The Contractor shall examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- B. Recruiting and Hiring: The Contractor, when hiring additional employees in order to perform this contract or any portion thereof, will determine the availability, in accordance with the Illinois Department of Human Rights' Rules and Regulations for Public Contracts, of minorities and women in the localities from which they may reasonably be recruited and will hire for each job classification for which employees are being hired in such a way that minorities and women are not underutilized.
- C. Employment Advertisements: The Contractor, in all solicitations or advertisements for employees, will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap unrelated to ability, or unfavorable discharge from military service (excluding dishonorable).
- D. Notification of Labor Organizations: The Contractor will send to each labor organization or representative of workers with which the Contractor has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligation under the Illinois Human Rights Act and the Illinois Department of Human Rights' Rules and Regulations for Public Contracts. If any such labor organization or representative fails or refuses to cooperate with the Contractor's efforts to comply with such act, rules, and regulations, the Contractor will promptly notify said department and the Owner. The Contractor will recruit employees from other sources, when necessary, to comply with the Act.

- E. Manpower Utilization Reports: The Contractor will submit all reports required by the Illinois Department of Human Rights' Rules and Regulations for Public Contracts and shall furnish all relevant information as may from time to time be requested by the Department or the Owner.
- F. Accessibility of Employment Records: The Contractor will permit access to all relevant books, records, and accounts and work sites by personnel of the Owner and the Illinois Department of Human Rights for the purpose of investigation to ascertain compliance with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts.
- G. Subcontract Requirements: The Contractor shall include verbatim or by reference the provisions of this article and the equal employment opportunity clause set forth in Section 6.1 of the Illinois Department of Human Rights' Rules and Regulations for Public Contracts as a material term in every subcontract and purchase order, so that such provisions will be binding upon every such Subcontractor or supplier.

67.2 Compliance with Federal Requirements: The Contractor shall comply with all provisions of federal Executive Orders 11246 (dated September 24, 1965) and 11375 (dated October 17, 1967), as amended, and shall comply with the rules, regulations and relevant orders of the U.S. Secretary of Labor, including the following:

- A. The Contractor and all Subcontractors employed by the Contractor in connection with the contract shall develop and implement a written affirmative action plan which complies with all State and Federal laws and regulations.
- B. The Contractor shall not discriminate against any employee or applicant for employment who is a disabled or a Viet Nam era veteran, in addition to those listed in paragraph 67.1A.

67.3 Responsibility for Subcontractors' Compliance: The Contractor shall be responsible for compliance with applicable provisions of this article by all Subcontractors employed by the Contractor in connection with this contract and will promptly notify both the Owner and Illinois Department of Human Rights in the event any Subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any Subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of the political subdivisions or municipal corporations.

67.4 Penalties for Noncompliance: In the event of the Contractor's noncompliance with any provision of this Equal Employment Opportunity article, the Illinois Human Rights and Regulations for Public Contracts of the federal requirements listed in paragraph 67.2 of this article, the Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations. In addition, this contract may be cancelled or voided in whole or in part and such other sanctions, penalties, or remedies may be imposed as provided by statute or regulation.

## Compliance with the Drug-Free Workplace Act of 1988

The Drug-Free Workplace Act of 1988 requires *some* Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a precondition of receiving a contract or grant from a Federal agency.

Although all covered contractors and grantees must maintain a drug-free workplace, the specific components necessary to meet the requirements of the Act vary based on whether the contractor or grantee is an individual or an organization. The requirements for organizations are more extensive, because organizations have to take comprehensive, programmatic steps to achieve a workplace free of drugs.

The Federal Acquisition Streamlining Act of 1994 (FASA) raised the threshold of contracts covered by the Drug-Free Workplace Act of 1988 from \$25,000 to those exceeding \$100,000.

All organizations covered by the Drug-Free Workplace Act of 1988 are required to provide a drug-free workplace by taking the following steps:

1. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
2. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
3. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within five calendar days, if he or she is convicted of a criminal drug violation in the workplace.
4. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.  
Impose a penalty on—or require satisfactory participation in a drug abuse assistance or rehabilitation program by—any employee who is convicted of a reportable workplace drug conviction.
5. Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the Act.

Note: A contractor or grantee who fails to comply with these requirements is subject to certain penalties.



## **Compliance with Public Act 87-1257 of the Illinois Human Rights Act**

Public Act 87-1257, effective July 1, 1993, amends the Illinois Human Rights Act (Section 2-105) by requiring that every party to a public contract and every eligible bidder shall have a written sexual harassment policy that shall include, at a minimum, the following information.

1. The illegality of sexual harassment;
  2. The definition of sexual harassment under state law;
  3. A description of sexual harassment, utilizing examples;
  4. The contractor's internal complaint process including penalties;
  5. The legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission;
  6. Directions on how to contact the Department and Commission;
  7. Protection against retaliation as provided by Section 6-101 of the Human Rights Act.
- B. Finally, the contractor must provide a copy of such written policy to the Department of Human Rights upon request.





### Subpart A—General Provisions

(PPT-9)

#### § 135.1 Purpose.

(a) *Section 3.* The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that 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.

(b) *Part 135.* The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

#### § 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect.

[60 FR 28326, May 31, 1995]

(PPT-10)

#### § 135.3 Applicability.

(a) *Section 3 covered assistance.* Section 3 applies to the following HUD assistance (section 3 covered assistance):

(1) *Public and Indian housing assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:

(i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);

(ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and

(iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

(2) *Housing and community development assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and community development assistance that is used for the following projects;

## 24 CFR Part 135—*Economic Opportunities for Low- and Very Low-income Persons*

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(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; and

(iii) Other public construction.

### **(PPT-11)**

(3) *Thresholds* —(i) *No thresholds for section 3 covered public and Indian housing assistance.* The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by section 3, regardless of the amount of the contract or subcontract.

(ii) *Thresholds for section 3 covered housing and community development assistance* —(A) *Recipient thresholds.* The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.

(B) *Contractor and subcontractor thresholds.* The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

(C) *Threshold met for recipients, but not contractors or subcontractors.* If a recipient receives section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.

(b) *Applicability of section 3 to entire project or activity funded with section 3 assistance.* The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) *Applicability to Indian housing authorities and Indian tribes.* Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See 24 CFR part 905.)

(d) *Other HUD assistance and other Federal assistance.* Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low-income persons, or which employ low- and very low-income persons.

## 24 CFR Part 135—*Economic Opportunities for Low- and Very Low-income Persons*

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### § 135.5 Definitions.

The terms *Department*, *HUD*, *Indian housing authority (IHA)*, *Public housing agency (PHA)*, and *Secretary* are defined in 24 CFR part 5.

*Annual Contributions Contract (ACC)* means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

*Applicant* means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

*Assistant Secretary* means the Assistant Secretary for Fair Housing and Equal Opportunity.

*Business concern* means 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.

*Business concern that provides economic opportunities for low- and very low-income persons.* See definition of “section 3 business concern” in this section.

*Contract.* See the definition of “section 3 covered contract” in this section.

*Contractor* means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

*Employment opportunities generated by section 3 covered assistance* means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in §135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in §135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

*Housing authority (HA)* means, collectively, public housing agency and Indian housing authority.

## 24 CFR Part 135—*Economic Opportunities for Low- and Very Low-income Persons*

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*Housing and community development assistance* means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

*Housing development* means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

*HUD Youthbuild programs* mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

*Indian tribes* shall have the meaning given this term in 24 CFR part 571.

*JTPA* means the Job Training Partnership Act (29 U.S.C. 1579(a)).

*Low-income person*. See the definition of “section 3 resident” in this section.

*Metropolitan area* means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

*Neighborhood area* means:

- (1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.
- (2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

*New hires* mean full-time employees for permanent, temporary or seasonal employment opportunities.

*Nonmetropolitan county* means any county outside of a metropolitan area.

*Other HUD programs* means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for “section 3 covered projects,” as defined in this section.

*Public housing resident* has the meaning given this term in 24 CFR part 963.

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*Recipient* means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors.

*Section 3* means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

### **(PPT-12)**

*Section 3 business concern* means a business concern, as defined in this section—

- (1) That is 51 percent or more owned by section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

*Section 3 clause* means the contract provisions set forth in §135.38.

*Section 3 covered activity* means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

*Section 3 covered assistance* means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act;

(2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act;

(3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act;

(4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; or

(iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

*Section 3 covered contract* means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. “Section 3 covered contracts” do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 covered contracts” also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

*Section 3 covered project* means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

*Section 3 joint venture.* See §135.40. Section 3 resident means: (1) A public housing resident; or

(2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is:

(i) *A low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or

(ii) *A very low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

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

*Section 8 assistance* means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

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*Service area* means the geographical area in which the persons benefitting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.

*Subcontractor* means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

*Very low-income person.* See the definition of "section 3 resident" in this section.

*Youthbuild programs.* See the definition of "HUD Youthbuild programs" in this section.

[59 FR 33880, June 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

### **§ 135.7 Delegation of authority.**

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to redelegate functions and responsibilities to other employees of HUD; *provided however*, that the authority to issue rules and regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

### **§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.**

(a) *Certification of compliance with part 135.* All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) *Statement of purpose in NOFAs.* (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed \$200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible,

and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) *Section 3 as NOFA evaluation criteria.* Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

### **§ 135.11 Other laws governing training, employment, and contracting.**

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

#### **(PPT-13)**

(a) *Procurement standards for States and local governments (24 CFR 85.36)* —(1) *General.* Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

(2) *Flexible Subsidy Program.* Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) *Procurement standards for other recipients (OMB Circular No. A-110).* Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A-110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) *Federal labor standards provisions.* 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. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen



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set out in “approved apprenticeship and training programs,” as described in paragraph (d) of this section.

(d) *Approved apprenticeship and trainee programs.* Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) *Compliance with Executive Order 11246.* Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

### **Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns**

#### **(PPT-14)**

#### **§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.**

(a) *General.* (1) Recipients and covered contractors may demonstrate compliance with the “greatest extent feasible” requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.

(3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(4) The numerical goals established in this section represent minimum numerical targets.

(b) *Training and employment.* The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels.

(1) *Numerical goals for section 3 covered public and Indian housing programs.* Recipients of section 3 covered public and Indian housing assistance (as described in §135.5) and their contractors and

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subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as:

- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;
- (ii) 20 percent of the aggregate number of new hires for the one period beginning in FY 1996;
- (iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter.

(2) *Numerical goals for other HUD programs covered by section 3.* (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in §135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project;

(ii) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as:

- (A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;
- (B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;
- (C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter.

(3) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in §135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;
- (ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and
- (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) *Contracts.* Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in §135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns:

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(1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) *Safe harbor and compliance determinations.* (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements.

(2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in §135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

### **§ 135.32 Responsibilities of the recipient.**

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:

#### **(PPT-15)**

(a) 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;

(b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in §135.38 in all solicitations and contracts.

(c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in §135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in §135.30;

#### **(PPT-16)**

(d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

### **§ 135.34 Preference for section 3 residents in training and employment opportunities.**

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority:

(i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);

(ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents);

(iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents);

(iv) Other section 3 residents.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and

(ii) Participants in HUD Youthbuild programs (category 2 residents).

(iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.* ), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority;

(iv) Other section 3 residents.

(3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located.

(4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located.

### **(PPT-17)**

(b) *Eligibility for preference.* A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a section 3 resident, as defined in §135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

(c) *Eligibility for employment.* Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

### **§ 135.36 Preference for section 3 business concerns in contracting opportunities.**

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to award section 3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority:

(i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses);

(ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that

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subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

(iii) Other section 3 business concerns.

### **(PPT-18)**

(b) *Eligibility for preference.* A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in §135.5.

(c) *Ability to complete contract.* A section 3 business concern seeking a contract or a subcontract shall 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. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

### **§ 135.38 Section 3 clause.**

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

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.



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C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

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

### **§ 135.40 Providing other economic opportunities.**

(a) *General.* In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

#### **(PPT-19)**

(b) *Other training and employment related opportunities.* Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) *Other business related economic opportunities.* (l) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(2) A *section 3 joint venture* means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

**(PPT-20)**

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

**Subpart C [RESERVED]**

**Subpart D—Complaint and Compliance Review**

**§ 135.70 General.**

(a) *Purpose.* The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) *Definitions.* For purposes of this subpart:

(1) *Complaint* means an allegation of noncompliance with regulations of this part made in the form described in §135.76(d).

(2) *Complainant* means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) *Noncompliance with section 3* means failure by a recipient or contractor to comply with the requirements of this part.

(4) *Respondent* means the recipient or contractor against which a complaint of noncompliance has been filed. The term “recipient” shall have the meaning set forth in §135.7, which includes PHA and IHA.

### **§ 135.72 Cooperation in achieving compliance.**

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in investigations of allegations of noncompliance made under §135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 2 CFR part 2424 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or otherwise ineligible status.

[59 FR 33880, June 30, 1994, as amended at 72 FR 73493, Dec. 27, 2007]

### **§ 135.74 Section 3 compliance review procedures.**

(a) *Compliance reviews by Assistant Secretary.* The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) *Form of compliance review.* A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) *Where compliance review reveals noncompliance with section 3 by recipient or contractor.* Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) *Continuing noncompliance by recipient or contractor.* A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply

with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Where appropriate, debarment, suspension, and limited denial of participation may be applied to the recipient or the contractor, pursuant to HUD's regulations at 2 CFR part 2424.

(e) *Conducting compliance review before the award of assistance.* Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) *Consideration of complaints during compliance review.* Complaints alleging noncompliance with section 3, as provided in §135.76, may also be considered during any compliance review conducted to determine the recipient's conformance with regulations in this part.

[59 FR 33880, June 30, 1994, as amended at 72 FR 73493, Dec. 27, 2007]

### **§ 135.76 Filing and processing complaints.**

(a) *Who may file a complaint.* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

(1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents;

(2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) *Where to file a complaint.* A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC, 20410.

(c) *Time of filing.* (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

(2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) *Contents of complaint* —(1) *Written complaints*. Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant's name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(2) *Amendment of complaint*. Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) *Resolution of complaint by recipient*. (1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) *Informal resolution of complaint by Assistant Secretary* —(1) *Dismissal of complaint*. Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the

recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) *Informal resolution.* Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided.

(3) *Effective date of informal resolution.* The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) *Sanctions.* Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) *Investigation of complaint.* The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(j) *Judicial relief.* Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

(Approved by the Office of Management and Budget under control number 2529–0043)

### **Subpart E—Reporting and Recordkeeping**

#### **§ 135.90 Reporting.**

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such



information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

(Approved by the Office of Management and Budget under control number 2529–0043)

### **§ 135.92 Recordkeeping and access to records.**

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

#### **(PPT-21)**

#### **Appendix to Part 135**

##### *I. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents*

- (1) Entering into “first source” hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified “Step-Up” employment and training program for section 3 residents.
- (3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.
- (4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in §135.34) reside.
- (5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.
- (6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

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(7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

(8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.

(9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

(10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

(11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.

(12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.

(13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and §905.201(a)(6).)

(16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.

(17) Undertaking job counseling, education and related programs in association with local educational institutions.

(18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.

(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.

(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

### **(PPT-22)**

#### *II. Examples of Efforts To Award Contracts to Section 3 Business Concerns*

(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).

(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.

(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.

(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.

(6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.

(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.

(8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

(9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.

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- (10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- (11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.
- (12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.
- (13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- (14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (15) Developing a list of eligible section 3 business concerns.
- (16) For HAs, participating in the “Contracting with Resident-Owned Businesses” program provided under 24 CFR part 963.
- (17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- (18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.
- (19) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- (20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
- (21) Actively supporting joint ventures with section 3 business concerns.
- (22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

### ***III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns***

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the “contracting party”) for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

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(1) *Small Purchase Procedures.* For section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(i) *Solicitation.* (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

—the section 3 covered contract to be awarded with sufficient specificity;

—the time within which quotations must be submitted; and

—the information that must be submitted with each quotation.

### **(PPT-23)**

(B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) *Award.* (A) 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.

(B) 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. 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 system.

(2) *Procurement by sealed bids (Invitations for Bids).* Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) 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 and with the lowest responsive bid if that bid—

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(A) is within the maximum total contract price established in the contracting party'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:

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

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(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) 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) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of 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 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 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.



# Certification of Payments to Influence Federal Transactions

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

OMB Approval No. 2577-0157 (Exp. 01/31/2017)

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature	Date (mm/dd/yyyy)



# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure.)

Approved by OMB

0348-0046

<b>1. Type of Federal Action:</b> <input type="checkbox"/> A a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> A a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> A a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input checked="" type="checkbox"/> Subawardee Tier _____, if known: _____ _____ _____ <b>Congressional District, if known:</b> 18th	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b> Quincy Housing Authority 540 Harrison Street Quincy, IL 62301  <b>Congressional District, if known:</b> 18th	
<b>6. Federal Department/Agency:</b> Department of Housing and Urban Development	<b>7. Federal Program Name/Description:</b> Capital Fund Program (CFP) And/Or Operating Fund (OFND) CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	<b>Signature:</b> _____ <b>Print Name:</b> _____ <b>Title:</b> _____ <b>Telephone No.:</b> _____ <b>Date:</b> _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)



## SECTION 01020

### APPLICATIONS FOR PAYMENTS/CHANGE ORDERS

#### PART 1 GENERAL

**1.01 DESCRIPTION:** APPLICATION FOR PAYMENT: Comply with procedures described in this Section when applying for progress payments and final payment under the Contract.

- A. RELATED WORK: Documents affecting work of this section include, but are not necessarily limited to, General Conditions, Instructions to Contractors, and other sections of Division 1 of these Specifications.
1. The Contract Sum and the schedule for payments are described in the Agreement.
  2. Payments upon Substantial Completion and final completion are described in the General Conditions and in Section 01700 of these specifications.
  3. The Architect's approval of applications for progress payments and final payment may be contingent upon the Architect's approval of the status of Project Record Documents.

**1.02 QUALITY ASSURANCE:** Prior to start of construction, secure the Architect's approval of the Schedule of Values required to be submitted.

- A. During the progress of the Work, modify the Schedule of Values as approved by the Architect to reflect changes in the Contract Sum due to Change Orders or other modifications of the Contract.
- B. Base requests for payment upon the approved Schedule of Values.

**1.03 SUBMITTALS:** Unless otherwise directed by the Architect:

- A. Make submittal of request for payment by filling in pertinent portions of AIA Document G702, "Application and Certificate for Payment", plus Continuation Sheet (G703) or sheets.
1. Sign and notarize the Application and Certificate for Payment.
  2. Submit the original of the Application and Certificate for Payment, plus two (2) additional copies to the Architect.
  3. Submit Waiver of Lien.
  4. Submit Wage Records as specified in Instructions to Contractors.
  5. The Architect will, when approved, sign the Application and Certificate for Payment, will make required copies, and will distribute:
    - a One copy to Contractor;
    - b One copy to Owner; and
    - c One copy to Architect.
  6. After approval, within the time frame established in the Agreement, Owner will disburse payment to Contractor.

- 1.04 DESCRIPTION, CHANGE ORDER PROCEDURE:** Make such changes in the Work, in the contract Sum, in the Contract Time, or any combination thereof, as are described in written Change Orders signed by the Owner and the Architect and issues after execution of the Contract, in accordance with the provisions of this Section.
- 1.05 PROCESSING CHANGES INITIATED BY THE OWNER:** Should the Owner contemplate making a change in the Work or a change in the Contract Time of Completion, the Architect will issue a request for "Change Order" quote to the Contractor.
- A. The request for Change Order quote will describe the contemplated change, and will carry one of the following instructions to the Contractor:
    - 1. Make the described change in the work at no change in the Contract Sum and no change in the Contract Time of Completion;
    - 2. Promptly advise the Architect as to credit or cost proposed for the described change. This is not an authorization to proceed with the change.
  - B. If the Contractor has been directed by the Architect to make the described change in the work at no change in the Contract Sum and no change in the Contract Time of Completion, but the Contractor wishes to make a claim for one or both of such changes, the Contractor shall proceed with the change and shall notify the Architect as provided for under General Conditions.
  - C. If the Contractor has been directed by the Architect to promptly advise him as to credit or cost proposed for the described change, the Contractor shall:
    - 1. Analyze the described change and its impact on costs and time;
    - 2. Secure the required information and forward it to the Architect for review;
    - 3. Meet with the Architect as required to explain costs and, when appropriate, determine other acceptable ways to achieve the desired objective;
    - 4. Alert pertinent personnel and subcontractors as to the impending change and, to the maximum extent possible, avoid such work as would increase the Owner's cost for making the change, advising the Architect in writing when such avoidance no longer is practicable.
- 1.06 PROCESSING CHANGES INITIATED BY THE CONTRACTOR:** Should the Contractor discover a discrepancy among the Contract Documents, a concealed condition as described in the General Conditions, or other cause for suggesting a change in the Work, a change in the Contract Sum, or a change in the Contract Time of Completion, he shall notify the Architect as required by pertinent provisions of the Contract Documents.
- A. Upon agreement by the Architect that there is reasonable cause to consider the Contractor's proposed change, the Architect will issue a Change Order in accordance with the provisions described in Article 1.05 above.

## **1.07 PROCESSING CHANGE ORDERS**

- A. Change Orders will be dated and will be numbered in sequence.
- B. The Change Order will describe the change or changes, and will be signed by the Owner and the Architect.
- C. The Architect will issue three copies of each Change Order to the Contractor.
  - 1. The Contractor promptly shall sign all three copies and return to the Architect.
  - 2. The Architect will retain one signed copy in his file, will forward one signed copy to the Owner, and one to the Contractor.
- D. Should the Contractor disagree with the stipulated change in Contract Sum or change in Contract Time of Completion, or both:
  - 1. The Contractor promptly shall return the copies of the Change Order, unsigned by him, to the Architect with a letter signed by the Contractor and stating the reason or reasons for the Contractor's disagreement.
  - 2. The Contractor's disagreement with the Change Order shall not, in any way, relieve the Contractor of his responsibility to proceed with the change as ordered and to seek settlement of the dispute under pertinent provisions of the Contract Documents.

END





## SECTION 01300

### SUBMITTALS AND SUBSTITUTIONS

#### PART 1 GENERAL

**1.01 DESCRIPTION:** Make submittals required by the Contract Documents, and revise and resubmit as necessary to establish compliance with the specified requirements.

A. Related Work:

1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and other sections in Division 1 of these specifications.

B. Work Included:

1. Submit in accordance with individual specification section.
2. Unrequired submittals will not be reviewed by the Architect.
3. The Contractor may require his subcontractors to provide drawings, setting diagrams, and similar information to help coordinate the Work, but such data shall remain between the Contractor and his subcontractors and will not be reviewed by the Architect.

**1.02 QUALITY ASSURANCE:** Submittals not in compliance with this section of the specifications will be returned to the Contractor with no action taken.

A. Coordination of submittals required of the General Contractor:

1. Prior to each submittal, carefully review and coordinate all aspects of each item being submitted.
2. Verify that each item and the submittal for it conform in all respects with the specified requirements.
3. By affixing the Contractor's signature to each submittal, certify that this coordination has been performed.

B. Substitutions, Bidder/Contractor Options

1. Prior to Bid Opening: The Architect/Engineer will consider written requests to amend the bidding documents to add products not specified provided such requests are received at least 7 calendar days prior to bid opening date. Requests received after that time will not be considered. When a request is approved, the Architect/Engineer will issue an appropriate addendum not less than seven calendar days prior to bid opening date.
2. After Award of Contract: No substitutions will be considered after Notice of Award except under one or more of the following conditions:
  - a Substitutions required for compliance with final interpretations of code requirements or insurance regulations.
  - b Unavailability of specified products, through no fault of contractor.
  - c Subsequent information discloses inability of specified product to perform properly or to fit in designated space.
  - d Manufacturer/fabricator refusal to certify or guarantee performance of specified product as specified.

- e When a substitution would be substantially to Owner's best interests.

C. Substitution Requirements

1. Submit (2) copies of each request for substitution. Include in request:
  - a. Complete data substantiating compliance of proposed substitution with contract documents.
  - b. For products:
    1. Product identification, including manufacturer's name and address.
    2. Manufacturer's literature:
  - a. Product description
  - b. Performance and test data
  - c. Reference standards
  3. Samples
  4. Name and address of similar projects on which product was used and date of installation.
  - f. For construction methods:
    5. Detailed description of proposed method.
    6. Drawings illustrating methods.
  - g. Itemized comparison of proposed substitution with product or method specified.
  - h. Data relating to changes in construction schedule.
  - i. Identify:
    7. Changes or coordination required.
    8. Other contract affected.
  - j. Accurate cost data on proposed substitution in comparison with product or method specified.
2. In making request for substitution, bidder/contractor represents:
  - a. It will provide the same guarantee for substitution as for product or method specified.
  - b. It will coordinate installation of accepted substitutions into work, making all changes for work to be complete in all respects.
  - c. Cost data is complete and includes all related costs under its contract, but excludes:
    1. Architect/Engineer's redesign.
    2. Administrative costs of Architect/Engineer.
  - d. It will pay all additional costs and expenses for Owner, Architect/Engineer and other contractors.
3. Substitutions will not be considered when:
  - a. They are indicated or implied on shop drawings or product data submittals without formal request submitted in accordance with Paragraph 1.04.
  - b. Acceptance will require substantial revision of contract document.
  - c. Do not substitute materials, equipment, or methods unless such substitution has been specifically approved in writing for this work by the Architect.
  - d. Specifying products or materials by manufacturer and model number is done to establish a standard of performance and quality requisite

for this project and is not intended to limit competition. Contractors may propose alternate or substitute materials for consideration at the time of bidding as described in 1.02 – B.1 above.

**1.03 SUBMITTALS:** Make submittals of Shop Drawings, Samples, substitution requests, and other items in accordance with the provisions of this section.

**A. Shop Drawings:**

1. Scale and measurements: Make Shop Drawings accurately to a scale sufficiently large to show all pertinent aspects of the item and its method of connection to the work.
2. Types of prints required.
  - a. Submit Shop Drawings in the form of three blueline or blackline prints of each sheet.
  - b. Drawings shall indicate product specific application to the particular situation unique to this project.
  - c. Reproduction of construction drawings details shall be limited to floor plan views.
3. Review comments of the Architect will be shown on the print when it is returned to the Contractor. The Contractor may make and distribute such copies as are required for his purposes.

**B. Manufacturer's Literature**

1. Where contents of submitted literature from manufacturers includes data not pertinent to the submittal, clearly show which portions of the contents are being submitted for review.
2. Submit the number of copies which are required to be returned, plus two copies which will be retained by the Architect.

**C. Samples:**

1. Provide sample or samples identical to the precise article proposed to be provided. Identify as described under "Identification of Submittals" below.
2. Number of Samples required:
  - a. Unless otherwise specified, submit samples in the quantity which is required to be returned, plus one which will be retained by the Architect.
  - b. By prearrangement in specific cases, a single sample may be submitted for review and, when approved, be installed in the work at a location agreed upon by the Architect.

**D. Colors and Patterns**

1. Unless the precise color and pattern is specifically called out in the contract documents, and whenever a choice of color or pattern is available in the specified products, submit accurate color and pattern charts to the Architect for selection.

**E. Identification of Submittals**

1. Consecutively number all submittals
  - a. When material is resubmitted for any reason, trans it under a new letter of transmittal and with a new transmittal number.

- b. On resubmittals, cite the original submittal number for reference.
- 2. Accompany each submittal with a letter of transmittal showing all information required for identification and checking.
- 3. On at least the first page of each submittal, and elsewhere as required for positive identification, show the submittal number in which the item was included.
- 4. Maintain an accurate submittal log for the duration of the work, showing current status of all submittals at all times. Make the submittal log available to the Architect for his review upon request.

F. Grouping of Submittals

- 1. Unless otherwise specified, make submittals in groups containing all associated items to assure that information is available for checking each item when it is received.
  - a. Partial submittals may be rejected as not complying with the provisions of the Contract.
  - b. The Contractor may be held liable for delays so occasioned.

G. Timing of Submittals

- 1. Make submittals far enough in advance of scheduled dates for installation to provide time required for reviews, for securing necessary approvals, for possible revisions and resubmittals, and for placing orders and securing delivery. Refer to each Section for time limits requested.
- 2. In scheduling, allow at least ten working days for review by the Architect following his receipt of the submittal.

H. Architect's Review

- 1. Review by the Architect does not relieve the Contractor from responsibility for errors which may exist in the submitted data.
- 2. Revisions:
  - a. Make revisions required by the Architect.
  - b. If the Contractor considers any required revision to be a change, he shall so notify the Architect as provided for in the General Conditions.
  - c. Make only those revisions directed or approved by the Architect.

END

## **SECTION 01340**

### **SHOP DRAWINGS, PRODUCT DATA & SAMPLES**

#### **1. GENERAL**

##### **1.01 GENERAL**

- A. Each Contractor make specified pre-construction submittals in accordance with Article 01340 of the Standard Documents for Construction.

##### **1.02 SUBMITTALS**

- A. Contractor and Sub-Contractor :
  - 1. Submit in accordance with individual Specification Sections.

END OF SECTION





## **SECTION 01530**

### **BARRIERS**

#### **1. GENERAL**

##### **1.01 REQUIREMENTS INCLUDE**

###### **A. Prime Contractor:**

1. Provide and maintain suitable barriers to prevent unauthorized entry, and to protect the work, existing facilities and construction operations.
2. Remove when no longer needed, at completion of the work or as directed.

#### **2. PRODUCTS**

**2.01 MATERIALS:** Materials may be new or used, suitable for purpose. Comply with specified codes.

**2.02 BARRIERS:** Materials, at Contractors option, appropriate for purpose.

#### **3. EXECUTION**

##### **3.01 INSTALLATION**

- A. Install facilities of a neat and uniform appearance.
- B. Maintain barriers during entire construction period.
- C. Relocate barriers as construction progresses.

##### **3.02 REMOVAL**

- A. Remove when authorized by the A/E.

END 01530



## **SECTION 01540**

### **SECURITY**

#### **1. GENERAL**

##### **1.01 REQUIREMENTS INCLUDE**

###### **A. General Contractor:**

1. Protect work, stored materials, and construction equipment from theft and vandalism.
2. Protect premises from entry by unauthorized persons.
3. Protect Owner's operations at site from theft, vandalism, or damage from Contractor's work or employees.
4. Cooperate with the supplemental security program, of the Owner.

##### **1.02 RELATED REQUIREMENTS**

###### **A. Specified elsewhere:**

1. 01530 - Barriers.
2. 01620 - Storage & Protection.

##### **1.03 MAINTENANCE AND SECURITY**

- ###### **A.**
- Maintain security program throughout construction period until Owner occupancy precludes need for Contractor security.

END 01540.



**SECTION 01561**  
**CONSTRUCTION CLEANING**

**PART 1 GENERAL**

**1.01 REQUIREMENTS INCLUDE**

- A. Each Contractor provide cleaning and disposal of waste materials, debris and rubbish during construction.
- B. General Contractor: Supervise and coordinate cleaning operations of all Assigned Contractors.

**1.02 RELATED REQUIREMENTS**

- A. Specified elsewhere:
  - 1. 01710 – Final Cleaning

**PART 2 PRODUCTS**

**2.01 EQUIPMENT**

- A. Provide covered containers for deposit of waste materials debris, and rubbish.
- B. Control cleaning operations so that dust and other particles will not adhere to wet or newly coated surfaces.

**3.02 DISPOSAL**

- A. Regularly remove waste materials, debris, and rubbish from site weekly and dispose of off-site.

END



## **SECTION 01620**

### **STORAGE & PROTECTION**

#### **PART 1 GENERAL**

##### **1.01 REQUIREMENTS INCLUDE**

- A. Each Contractor:
  - 1. Make arrangements with Owner's Representative for storage of materials and equipment to be installed in project. Protection and security for stored materials and equipment, on and off site is solely contractor's responsibility.

##### **1.02 RELATED REQUIREMENTS**

- A. Specified elsewhere
  - 1. 01340 - Shop Drawings, Product Data & Samples
  - 2. 01710 - Cleaning.

##### **1.03 OFF-SITE AUTHORIZATION**

- A. Payment for materials/equipment stored off-site storage will be permitted only on prior written authorization in accord with the General Conditions.

#### **PART 2 PRODUCTS**

##### **2.01 PROTECTIVE MATERIALS**

- A. For duration of storage period, provide materials which will provide proper protection against the elements or other harmful environmental condition.

#### **PART 3 EXECUTION**

##### **3.01 LOCATION**

- A. Where authorized by Owner.
- B. Architect/Engineer will resolve conflicts in storage requirements of all contractors.

END 01620





## **SECTION 01630**

### **SUBSTITUTIONS & PRODUCT OPTIONS**

#### **1. GENERAL**

##### **1.01 REQUIREMENTS INCLUDE**

- A. Base all bids on providing all products exactly as specified.
- B. For products specified only by reference or performance standards, select any product which meets or exceeds standards, by any manufacturers, subject to the Architect/Engineer's approval.
- C. For products specified by naming several products or manufacturers, select any product and manufacturer named. Only those products or manufacturer named shall be considered acceptable.

##### **1.02 SUBSTITUTIONS, BIDDER/CONTRACTOR OPTIONS**

- A. PRIOR TO BID OPENING: The Architect/Engineer will consider written requests to amend the bidding documents to add products not specified provided such requests are received at least 7 calendar days prior to bid opening date. Requests received after that time will not be considered. When a request is approved, the Architect/Engineer will issue an appropriate addendum not less than seven calendar days prior to bid opening date.
- B. AFTER AWARD OF CONTRACT: No substitutions will be considered after Notice of Award except under one or more of the following conditions:
  - 1. Substitutions required for compliance with final interpretations of code requirements or insurance regulations.
  - 2. Unavailability of specified products, through no fault of Contractor.
  - 3. Subsequent information discloses inability of specified product to perform properly or to fit in designated space.
  - 4. Manufacturer/fabricator refusal to certify or guarantee performance of specified product as specified.
  - 5. When a substitution would be substantially to Owner's best interests.

##### **1.03 SUBSTITUTION REQUIREMENTS**

- A. Submit (2) copies of each request for substitution. Include in request:
  - 1. Complete data substantiating compliance of proposed substitution with contract documents.
  - 2. For products:
    - a. Product identification, including manufacturer's name and address.
    - b. Manufacturer's literature:
      - 1. Product description.
      - 2. Performance and test data.
      - 3. Reference standards.
    - c. Samples

- d. Name and address of similar projects on which product was used and date of installation.
  - 3. For construction methods:
    - a. Detailed description of proposed method.
    - b. Drawings illustrating methods.
  - 4. Itemized comparison of proposed substitution with product or method specified.
  - 5. Data relating to changes in construction schedule.
  - 6. Identify:
    - a. Changes or coordination required.
    - b. Other contract affected.
  - 7. Accurate cost data on proposed substitution in comparison with product or method specified.
- B. In making request for substitution, bidder/contractor represents:
- 1. It will provide the same guarantee for substitution as for product or method specified.
  - 2. It will coordinate installation of accepted substitutions into work, making all changes for work to be complete in all respects.
  - 3. Cost data is complete and includes all related costs under its contract, but excludes:
    - a. Architect/Engineer's redesign.
    - b. Administrative costs of Architect/Engineer.
  - 4. It will pay all additional costs and expenses for Owner, Architect/Engineer, and other contractors.
- C. Substitutions will not be considered when:
- 1. They are indicated or implied on shop drawings or product data submittals without formal request submitted in accordance with Paragraph 1.03.
  - 2. Acceptance will require substantial revision of contract document.

END

## SECTION 01700

### CONTRACT CLOSEOUT

**1.01 DESCRIPTION:** Provide an orderly and efficient transfer of the completed work to the Owner.

**A. Related Work:**

1. Documents affecting work of this section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and other Sections in Division 1 of these Specifications.
2. Activities relative to Contract closeout are described in the General Conditions.
3. "Substantial Completion" is defined in the General Conditions.

**1.02 QUALITY ASSURANCE:** Prior to requesting inspection by the Architect, use adequate means to assure that the work is completed in accordance with the specified requirements and is ready for the requested inspection.

**1.03 PROCEDURES:** The following procedures will be used to achieve Contract Closeout:

**A. Substantial Completion:**

1. Prepare and submit the list required by the General Conditions.
2. Within a reasonable time after receipt of the list, the Architect will inspect to determine status of completion.
3. Should the Architect determine that the Work is not substantially complete:
  - a. The Architect promptly will so notify the Contractor, in writing, giving the reasons therefore.
  - b. Remedy the deficiencies and notify the Architect when ready for reinspection.
  - c. The Architect will reinspect the Work.
4. When the Architect concurs that the work is substantially complete:
  - a. The Architect will prepare a "Punch List", accompanied by the Contractor's list of items to be completed or corrected, as verified by the Architect.
  - b. The Architect will submit the Certificate to the Owner and to the Contractor for their written acceptance of the responsibilities assigned to them in the Certificate.

**B. Final Completion:**

1. Prepare and submit the notice required by the General Conditions.
2. Verify that the work is complete including, but not necessarily limited to, the items mentioned in the General Conditions.
3. Certify that:
  - a. Contract Documents have been reviewed.
  - b. Work has been inspected for compliance with the Contract Documents.

- c. Work has been completed in accordance with the Contract Documents.
    - d. Equipment and systems have been tested as required, and are operational.
    - e. Work is completed and ready for final inspection.
  - 4. The Architect will make an inspection to verify status of completion.
  - 5. Should the Architect determine that the work is incomplete or defective:
    - a. The Architect will promptly so notify the Contractor, in writing, listing the incomplete or defective work.
    - b. Remedy the deficiencies promptly, and notify the Architect when ready for reinspection.
  - 6. When the Architect determines that the work is acceptable under the Contract Documents, he will request the contractor to make closeout submittals.
- C. Closeout submittals include, but are not necessarily limited to:
- 1. Materials extra stock.
  - 2. Evidence of payment and release of liens.
  - 3. List of subcontractors, service organizations, and principal vendors, including names, addresses, and telephone numbers where they can be reached for emergency service at all times including nights, weekends, and holidays.
  - 4. List of manufacturer's recommendation for regular cleaning of all finishes on the building, equipment and furnishings.
- D. Final adjustment of accounts:
- 1. Submit a final statement of accounting to the Architect, showing all adjustments to the Contract Sum.
  - 2. If so required, the Architect will prepare a final Change Order showing adjustments to the Contract Sum which were not made previously by Change Orders.

**1.04 INSPECTION:** Instruct the Owner's personnel in proper operation and maintenance of systems, equipment, and similar items which were provided as part of the work.

**1.05 GUARANTEE:** Contractor(s) shall provide an unlimited guarantee covering materials and workmanship for a period of one year from the Date of Substantial Completion.

- A. Additional requirements are listed in other Sections of these Specifications with respect to specific products or materials listed in those Sections.
  - 1. Provide fully executed copies of manufacturer's warranties as a part of the work of this Section.

END

## SECTION 01710

### CLEANING

- 1.01 DESCRIPTION:** Throughout the construction period, maintain the buildings and site in a standard of cleanliness as described in this Section.
- A. Related work:
1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and other Sections in Division 1 of these Specifications.
  2. In addition to standards described in this Section, comply with requirements for cleaning as described in pertinent other Sections of these Specifications.
- 1.02 QUALITY ASSURANCE:** Conduct daily inspection, and more often if necessary, to verify that requirements for cleanliness are being met.
- A. In addition to the standards described in this Section, comply with pertinent requirements of governmental agencies having jurisdiction.
- 1.03 CLEANING MATERIALS AND EQUIPMENT:** Provide required personnel, equipment, and materials needed to maintain the specified standard of cleanliness.
- 1.04 COMPATIBILITY:** Use only the cleaning materials and equipment which are compatible with the surface being cleaned, as recommended by the manufacturer of the material.
- 1.05 PROGRESS CLEANING:** Perform periodic cleaning to comply with this Section.
- A. General:
1. Retain stored items in an orderly arrangement allowing maximum access, not impeding traffic; or drainage, and providing required protection of materials.
  2. Do not allow accumulation of scrap, debris, waste material, and other items not required for construction of this Work.
  3. At least twice each month, and more often if necessary, completely remove all scrap, debris, and waste material from job site.
  4. Provide adequate storage for all items awaiting removal from the job site, observing requirements for fire protection and protection of the ecology.
- B. Site:
1. Daily, and more often if necessary, inspect the site and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.
  2. Weekly, and more often if necessary, inspect all arrangements of materials stored on the site. Restack, tidy, or otherwise service arrangements to meet the requirements of subparagraph 1.05.A.1 above.
  3. Maintain the site in a neat and orderly condition at all times.

C. Structures:

1. Daily, and more often if necessary, inspect the structures and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.

**1.06 FINAL CLEANING:** Prior to final acceptance, additional cleaning must be accomplished.

- A. "Clean," for the purpose of this Article, and except as may be specifically provided otherwise, shall be interpreted as meaning the level of cleanliness generally provided by skilled cleaners using commercial quality building maintenance equipment and materials.
- B. Prior to completion of the work, remove from the job site all tools, surplus materials, equipment, scrap, debris, and waste. Conduct final progress cleaning as described in Article 1.05 above.
- C. Structures:
  1. Interior:
    - a. Visually inspect exterior surfaces and remove all traces of soil, waste materials, smudges, and other foreign matter.
    - b. Remove all traces of splashed materials from adjacent surfaces.
  2. Glass: Clean inside and outside.
  3. Polished surfaces: To surfaces requiring routing application of buffed polish, apply the polish recommended by the manufacturer of the material being polished.
- D. Schedule final cleaning as approved by the Architect to enable the Owner to accept a completely clean work.

**1.07 CLEANING DURING OWNER'S OCCUPANCY:** Should the Owner occupy the work or any portion thereof prior to its completion by the Contractor and acceptance by the Owner, responsibilities for interim and final cleaning shall be as determined by the Architect in accordance with the General Conditions of the Contract.

END



## **SECTION 02223**

### **MINOR DEMOLITION**

#### **PART 1 GENERAL**

##### **1.01 SCOPE OF WORK**

- A. The work contemplated under this Section consists of the furnishing of all labor, materials, equipment and services required for all minor demolition as indicated on the accompanying working drawings or as specified herein.
- B. The following items are listed as a guide in determining the Project requirements, but not necessarily limited to the following:
  - 1. Removal of designated construction.
  - 2. Disposal of materials.
  - 3. Identification of utilities.
  - 4. Refer to items as indicated on drawings.

##### **1.02 SPECIAL INSTRUCTIONS, NOT CONTAINED HEREIN**

- A. This contractor is referred to "Instructions to Contractors" for complete information regarding any special instructions affecting his bid or his work on this project.

##### **1.03 REGULATORY REQUIREMENTS**

- A. Conform to applicable code for demolition work, dust control, products requiring electrical disconnection and re-connection.
- B. Obtain required permits from authorities.
- C. Do not close or obstruct egress from any building exit.
- D. Do not disable or disrupt building fire or life safety systems without 3 days prior written notice to Owner.
- E. Conform to applicable regulatory procedures when hazardous or contaminated materials are discovered.

##### **1.04 SCHEDULING**

- A. Schedule work to coincide with new construction.
- B. Describe demolition removal procedures and schedule.

##### **1.05 PROJECT CONDITIONS**

- A. Conduct demolition to minimize interference with adjacent and occupied building areas.
- B. Cease operations immediately if structure appears to be in danger and notify Architect. Do not resume operations until directed.

#### **PART 2 PRODUCTS – NOT USED**

## **PART 3 EXECUTION**

### **3.01 PREPARATION**

- A. Provide, erect and maintain weatherproof closures for exterior openings.
- B. Erect and maintain weatherproof closures for exterior openings.
- C. Erect and maintain temporary partitions to prevent spread of dust, odors, and noise to permit continued building occupancy.
- D. Protect existing materials and equipment that are not to be demolished.
- E. Prevent movement of structure; provide bracing and shoring.
- F. Notify affected utility companies before starting work and comply with their requirements.
- G. Mark location and termination of utilities.
- H. Provide appropriate temporary signage including signage for exit or building egress.

### **3.02 DEMOLITION**

- A. Disconnect, cap, and identify designated utilities within demolition areas.
- B. Demolish in an orderly and careful manner. Protect existing supporting structural members.
- C. Remove demolished materials from site except where specifically noted otherwise. Do not burn or bury materials on site.
- D. Remove materials as demolition progresses. Upon completion of demolition, leave areas in clean condition.
- E. Remove temporary facilities.

END

## **SECTION 02833**

### **LEAD-BASED PAINT REMOVAL AND DISPOSAL**

#### **PART 1 - GENERAL**

##### **1.1 SUMMARY**

- A. Section Includes:
  - 1. Removing and disposal of lead-based paint at interior locations indicated in existing conditions report.

##### **1.2 RELATED REQUIREMENTS**

- A. Section 02223 – Minor Demolition
- B. Section 09900 - Painting

##### **1.3 DEFINITIONS**

- A. Action Level: Employee exposure, without regard to use of respirator, to lead airborne concentration of 30 micrograms per cubic meter (0.03 parts per million) of air averaged over 8-hour period. As used in this section, "30 micrograms per cubic meter of air (0.03 parts per million)" refers to action level.
- B. Area Monitoring: Sampling of lead concentrations within lead control area and inside physical boundaries which are representative of airborne lead concentrations which may reach breathing zone of personnel potentially exposed to lead.
- C. Breathing Zone: Area within hemisphere, forward of shoulders, with 150 mm to 225 mm (6 to 9 inches) radius and center at nose or mouth of employee.
- D. Certified Industrial Hygienist (CIH): As used in this section, refers to an Industrial Hygienist employed by Contractor.
- E. Change Rooms and Shower Facilities: Rooms within designated physical boundary around lead control area equipped with separate storage facilities for clean protective work clothing and equipment and for street clothes which prevent cross- contamination.
- F. Competent Person: Person capable of identifying lead hazards in work area and authorized by contractor to take corrective action.
- G. Decontamination Room: Room for removal of contaminated personal protective equipment (PPE).
- H. Eight-Hour Time Weighted Average (TWA): Airborne concentration of lead averaged over 8-hour workday to which an employee is exposed.
- I. High Efficiency Particulate Air (HEPA) Filter Equipment: HEPA filtered vacuuming equipment with UL 586 filter system capable of collecting and retaining lead-contaminated paint dust. HEPA filter means 99.97 percent efficient against 0.3 micron (0.012 mil) size particles.

- J. Lead: Metallic lead, inorganic lead compounds, and organic lead soaps. Excluded from this definition are other organic lead compounds.
- K. Lead Control Area: Enclosed area or structure with full containment to prevent spreading lead dust, paint chips, and debris from lead-based paint removal operations. Lead control area is isolated by physical boundaries to prevent unauthorized entry of personnel.
- L. Lead Permissible Exposure Limit (PEL): Fifty micrograms per cubic meter (0.05 parts per million) of air as 8-hour time weighted average as determined by 29 CFR Part 1910.1025. When employee is exposed for more than 8 hours per work day, determine PEL by following formula. 
$$\text{PEL micrograms/cubic meter (parts per million) of air} = 400/\text{No. of hrs. worked per day.}$$
- M. Personnel Monitoring: Sampling of lead concentrations within employee breathing zone to determine 8-hour time weighted average concentration according to 29 CFR Part 1910.1025. Take samples representative of employee's work tasks.
- N. Physical Boundary: Area physically roped or partitioned off around enclosed lead control area to limit unauthorized entry of personnel. As used in this section, "inside boundary" shall mean same as "outside lead control area."

#### **1.4 APPLICABLE PUBLICATIONS**

- A. Comply with references to extent specified in this section.
- B. American National Standards Institute (ANSI):
  - 1. Z9.2-12 - Fundamentals Governing the Design & Operation of Local Exhaust Ventilation Systems.
- C. Code of Federal Regulations (CFR):
  - 1. 29 CFR Part 1910 - Occupational Safety and Health Standards.
  - 2. 29 CFR Part 1926 - Safety and Health Regulations for Construction.
  - 3. 40 CFR Part 260 - Hazardous Waste Management System: General.
  - 4. 40 CFR Part 261 - Identification and Listing of Hazardous Waste.
  - 5. 40 CFR Part 262 - Standards Applicable to Generators of Hazardous Waste.
  - 6. 40 CFR Part 263 - Standards Applicable to Transporters of Hazardous Waste.
  - 7. 40 CFR Part 264 - Standards for Owners and Operations of Hazardous Waste Treatment, Storage, and Disposal Facilities.
  - 8. 40 CFR Part 265 - Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
  - 9. 40 CFR Part 268 - Land Disposal Restrictions.
  - 10. 49 CFR Part 172 - Hazardous Material Table, Special Provisions, Hazardous Material Communications, Emergency Response Information, and Training Requirements, and Security Plans.
  - 11. 49 CFR Part 178 - Specifications for Packagings.

- D. Underwriters Laboratories (UL):
  - 1. 586-09 - High-Efficiency, Particulate, Air Filter Units.

## **1.5 PRE-REMOVAL MEETINGS**

- A. Conduct pre-removal meeting at project site minimum 30 days before beginning Work of this section.
  - 1. Required Participants:
    - a. Contracting Officer's Representative.
    - b. Certified Industrial Hygienist.
    - c. Architect/Engineer.
    - d. Inspection and Testing Agency.
    - e. Contractor.
    - f. Paint removal contractor.
    - g. Other installers responsible for finishing resulting surfaces.
  - 2. Meeting Agenda: Distribute agenda to participants minimum 3 days before meeting.
    - a. Respiratory protection program.
    - b. Hazard communication program.
    - c. Hazardous waste management plan.
    - d. Safety and health regulation compliance.
    - e. Employee training.
    - f. Removal schedule.
    - g. Removal sequence.
    - h. Preparatory work.
    - i. Protection before, during, and after removal.
    - j. Removal.
    - k. Inspecting and testing.
    - l. Other items affecting successful completion.
  - 3. Document and distribute meeting minutes to participants to record decisions affecting installation.

## **1.6 SUBMITTALS**

- A. Submittal Procedures: Section 01340, SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES.
- B. Manufacturer's Literature and Data:
  - 1. Description of each product.
    - a. Paint removal products.
    - b. Vacuum filters.
    - c. Respirators.
  - 2. Safety data sheet for each paint removal product.
  - 3. Installation instructions.

- a. Paint removal products.
- C. Test Reports: Submit testing laboratory reports.
  - 1. Submit air monitoring results within three working days, signed by testing laboratory employee performing air monitoring, employee analyzing sample, and CIH.
- D. Certificates: Certify completed training.
  - 1. Submit certificate for each employee signed and dated by CIH and employee stating employee was trained.
- E. Qualifications: Substantiate qualifications comply with specifications.
  - 1. Paint removal contractor.
    - a. Name, address, and telephone number.
    - b. Current evidence of participation in NIOSH PAT Program.
    - c. Copy of current AIHA accreditation certificate.
  - 2. Testing laboratory.
    - a. Name, address, and telephone number.
    - b. Current evidence of participation in NIOSH PAT Program.
    - c. Copy of current AIHA accreditation certificate.
  - 3. Industrial hygienist.
    - a. Name, address, and telephone number.
    - b. Resume showing previous experience.
    - c. Copy of current ABIH CIH certification.
  - 4. Paint disposal facility.
    - a. Name, address, and telephone number.
    - b. Current license or authorization to receive and dispose lead contaminated waste.
- F. Record Documents:
  - 1. Completed and signed hazardous waste manifest from waste transporter.
  - 2. Paint disposal facility receipts and disposition reports.
  - 3. Certification of medical examinations.
  - 4. Employee training certification.

## **1.7 QUALITY ASSURANCE**

- A. Safety and Health Regulation Compliance:
  - 1. Comply with laws, ordinances, rules, and regulations of federal, state, and local authorities having jurisdiction regarding removing, handling, storing, transporting, and disposing lead waste materials.
    - a. Comply with applicable requirements of 29 CFR Part 1910.1025.
    - b. Notify Contracting Officer's Representative and request resolution of conflicts between regulations and specified requirements before starting work.
  - 2. Comply with all applicable local laws, ordinances, criteria, rules and regulations regarding removing, handling, storing, transporting, and disposing lead-contaminated materials.
- B. Paint Removal Contractor: Experienced contractor, registered or licensed by applicable state agency regulating lead-based paint removal.

- C. Testing Laboratory: State certified independent testing laboratory experienced in airborne lead monitoring, testing, and reporting.
  - 1. Successful participant in NIOSH Proficiency Analytical Testing (PAT) Program within prior 12 months.
  - 2. Accredited by American Industrial Hygiene Association (AIHA).
- D. Certified Industrial Hygienist: Certified as CIH by American Board of Industrial Hygiene in comprehensive practice and responsible for:
  - 1. Certify Training.
  - 2. Review and approve lead-based paint removal plan for conformance to applicable referenced standards.
  - 3. Inspect lead-based paint removal work for conformance with approved plan.
  - 4. Direct monitoring.
  - 5. Ensure work is performed according to specifications.
  - 6. Ensure personnel and environment hazardous exposures are adequately controlled.
- E. Paint Disposal Facility: State certified disposal facility qualified to receive and dispose lead-based paint.
- F. Lead-based Paint Removal Plan:
  - 1. Submit detailed, site-specific plan describing lead-based paint removal procedures.
  - 2. Include sketch showing location, size, and details of lead control areas, decontamination rooms, change rooms, shower facilities, and mechanical ventilation system.
  - 3. Include eating, drinking, and restroom procedures, interface of trades, work sequencing, collected wastewater and paint debris disposal plan, air sampling plan, respirators, protective equipment, and detailed description of containment methods ensuring airborne lead concentrations do not exceed action level outside lead control area.
    - a. Eating, drinking, and smoking are not acceptable within lead control area.
  - 4. Include air sampling, training and strategy, sampling methodology, frequency, duration, and qualifications of air monitoring personnel.
- G. Respiratory Protection Program: Establish and implement program required by 29 CFR Part 1910.134, 29 CFR Part 1910.1025, and 29 CFR Part 1926.62.
  - 1. Provide each employee negative pressure or other appropriate respirator.
    - a. Test fit each employee's respirator at initial fitting and maximum 6 month intervals, as required by 29 CFR Part 1926.62.
- H. Hazard Communication Program: Establish and implement program required by 29 CFR Part 1910.1200.
- I. Hazardous Waste Management Plan: Establish and implement plan according to applicable requirements of Federal, State, and local hazardous waste regulations including the following:
  - 1. Identification of hazardous wastes associated with work.

2. Estimated quantities of generated and disposed waste.
3. Names and qualifications of each contractor transporting, storing, treating, and disposing wastes. Include facility location and 24-hour point of contact. Provide two copies of EPA, state and local hazardous waste permit applications, permits and EPA Identification numbers.
4. Names and qualifications (experience and training) of personnel working on-site with hazardous wastes.
5. List of required waste handling equipment including cleaning, volume reduction, and transport equipment.
6. Spill prevention, containment, and cleanup contingency implementation measures.
7. Work plan and schedule for waste containment, removal, and disposal with daily waste cleaned up and containerization.
8. Hazardous waste disposal cost.

## **1.8 WARRANTY**

- A. Construction Warranty: FAR clause 52.246-21, "Warranty of Construction."

## **PART 2 - PRODUCTS**

### **2.1 PAINT REMOVAL PRODUCTS**

- A. Chemical Stripper: Biodegradable, non-toxic, capable of removing existing paint layers in one application, and acceptable to CIH.

### **2.2 ACCESSORIES**

- A. Waste Collection Drums: 49 CFR Part 178; Type 1A2, steel, removable head, 200 L (55 gal.) capacity, capable of containing waste without loss.
- B. Vacuum Cleaner: HEPA filtered type.
- C. Scrapers:
  1. Metal type for use on metal, concrete, and masonry surfaces.
  2. Plastic type for use on wood, plaster, gypsum board, and other surfaces.
- D. Rinse Water: Potable.
- E. Cleaning Cloths: Cotton.

## **PART 3 - EXECUTION**

### **3.1 EXAMINATION**

- A. Before exposure to lead-contaminated dust, provide workers with comprehensive medical examination required by 29 CFR Part 1926.62 (I) (1) (i) and (ii).
  1. Exemption: Examination is not required when employee medical records show last examination required by 29 CFR Part 1926.62(I) was completed within previous 12 months.
- B. Maintain complete and accurate employee medical records according to 29 CFR Part 1910.20.



- C. Train each employee performing paint removal, disposal, and air sampling operations according to 29 CFR Part 1926.62.
  - 1. Certify training is completed before employee is permitted to work on project and enter lead control area.

### **3.2 PREPARATION**

- A. Protect existing work indicated to remain.
  - 1. Perform paint removal work without damaging and contaminating adjacent work.
  - 2. Restore damage and contamination to original condition.
- B. Notify Contracting Officer 30 days before starting paint removal work.
- C. Lead Control Area Requirements:
  - 1. Establish lead control area by completely enclosing lead-based paint removal work area with containment screens.
  - 2. Contain removal operations using negative pressure full containment system with minimum one change room and HEPA filtered exhaust.
- D. Boundary Requirements: Provide physical boundaries around lead control area by roping off area // designated on drawings // or providing curtains, portable partitions or other enclosures to ensure that airborne lead concentrations do not meet or exceed action level outside of lead control area.
- E. Heating, Ventilating and Air Conditioning (HVAC) Systems: Shut down, lock out, and isolate HVAC systems supplying exhausting, and passing through lead control areas. Seal HVAC inlets and outlet within lead control area with 6-mil plastic sheet and tape. Tape seal seams in HVAC components passing through lead control area.
- F. Change Room and Shower Facilities: Provide clean change rooms and shower facilities within physical boundary around lead control area according to 29 CFR Part 1926.62.
- G. Mechanical Ventilation System:
  - 1. Provide ventilation system to control personnel exposure to lead according to 29 CFR Part 1926.57.
  - 2. Design, construct, install, and maintain HEPA filtered fixed local exhaust ventilation system according to ANSI Z9.2 and approved by CIH.
  - 3. Exhaust ventilation air to exterior wherever possible.
  - 4. When exhaust ventilation air must be recirculated into work area, provide HEPA filter with reliable back-up filter and controls to monitor lead concentration in return air and to bypass recirculation system automatically when system fails.
- H. Personnel Protection: Provide and use required protective clothing and equipment within lead control area.

- I. Warning Signs: Provide warning signs complying with 29 CFR Part 1926.62 at lead control area approaches. Locate signs so personnel read signs and take necessary precautions before entering lead control area.

### **3.3 WORK PROCEDURES**

- A. Remove lead-based paint according to approved lead-based paint removal plan.
  - 1. Perform work only in presence of CIH or Industrial Hygienist (IH) Technician under direction of CIH ensuring continuous inspection of work in progress and direction of air monitoring activities.
  - 2. Handle, store, transport, and dispose lead or and lead contaminated waste according to 40 CFR Part 260, 40 CFR Part 261, 40 CFR Part 262, 40 CFR Part 263, 40 CFR Part 264, and 40 CFR Part 265. Comply with land disposal restriction notification requirements as required by 40 CFR Part 268.
- B. Use procedures and equipment required to limit occupational and environmental lead exposure when lead-based paint is removed according to 29 CFR Part 1926.62.
- C. Dispose removed paint and waste according to Environmental Protection Agency (EPA), federal, state, and local requirements.
- D. Personnel Exiting Procedures:
  - 1. When personnel exit lead control area, comply with the following procedures:
    - a. Vacuum exposed clothing surfaces.
    - b. Remove protective clothing and equipment in decontamination room. Place clothing in approved impermeable disposal bag.
    - c. Shower.
    - d. Dress in clean clothes before leaving lead control area.
- E. Monitoring - General:
  - 1. Monitor airborne lead concentrations according to 29 CFR Part 1910.1025 by testing laboratory as directed by CIH.
  - 2. Take personal air monitoring samples on employees anticipated to have greatest exposure risk as determined by CIH. Additionally, take air monitoring samples on minimum 25 percent of work crew or minimum of two employees, whichever is greater, during each work shift.
  - 3. Submit results of air monitoring samples, signed by CIH, within 24 hours after taking air samples. Notify Contracting Officer's Representative immediately of lead exposure at or exceeding action level outside of lead control area.
- F. Monitoring During Paint Removal:
  - 1. Perform personal and area monitoring during entire paint removal operation.
  - 2. Conduct area monitoring at physical boundary daily for each work shift to ensure unprotected personnel are not exposed above action level anytime.

3. For outdoor operations, take at least one sample on each shift leeward of lead control area. When adjacent areas are contaminated, clean area of contamination and have CIH visually inspect and certify lead contamination is cleaned.
4. Stop work when outside boundary lead levels meet or exceed action level. Notify Contracting Officer's Representative, immediately.
5. Correct conditions causing increased lead concentration as directed by CIH.
6. Review sampling data collected during work stoppage to determine if conditions require additional work method modifications as determined by CIH.
7. Resume paint removal when approved by CIH.

### **3.4 LEAD-BASED PAINT REMOVAL**

- A. Remove paint within areas indicated on drawings completely exposing substrate. Minimize damage to substrate.
- B. Comply with paint removal processes described lead paint removal plan.
- C. Lead-Based Paint Removal: Select processes for each application to minimize work area lead contamination and waste.

### **3.5 SUBSTRATE SURFACE PREPARATION**

- A. Protect substrates from deterioration and contamination until refinished.
  1. Protect metal substrates from flash rusting.
- B. Prepare and paint substrates according to Section 09900, PAINTING.

### **3.6 FIELD QUALITY CONTROL**

- A. Field Tests: Performed by testing laboratory specified in Section 01 45 29, TESTING LABORATORY SERVICES.
- B. Perform sampling and testing for:
  1. Air monitoring.
  2. Lead based paint.

### **3.7 CLEANING AND DISPOSAL**

- A. Cleaning:
  1. Maintain lead control area surfaces free of accumulating paint chips and dust. Confine dust, debris, and waste to work area.
  2. Vacuum clean work area daily, at end of each shift, and when paint removal operation is complete.
- B. CIH Certification: Certify in writing that inside and outside lead control area air monitoring samples are less than action level, employee respiratory protection was adequate, the work was performed according to 29 CFR Part 1926.62, and no visible accumulations of lead-based paint and dust remain on worksite.

1. Do not remove lead control area or roped-off boundary and warning signs before Contracting Officer's Representative's receipt of CIH's certification.
  2. Reclean areas showing dust or residual paint chips.
- C. Testing: Where indicated and when directed by Contracting Officer's Representative, test lead-based paint residue and used abrasive according to 40 CFR Part 261 for hazardous waste.
- D. Waste Collection:
1. Collect lead-contaminated materials including waste, scrap, debris, bags, containers, equipment, and clothing, which may produce airborne lead contamination.
  2. Place lead contaminated materials in waste disposal drums. Label each drum identifying waste type according to 49 CFR Part 172 and date waste materials were first put into drum. Obtain and complete the Uniform Hazardous Waste Manifest forms. Comply with land disposal restriction notification requirements required by 40 CFR Part 268:
  3. Coordinate temporary storage location on project site with Contracting Officer's Representative.
- E. Waste Disposal:
1. Minimum 14 days before delivery, notify Contracting Officer's Representative who will arrange for job site inspection of drums and manifests by paint disposal facility personnel.
  2. Contracting Officer's Representative will arrange hazardous wastes removal, transport and delivery to paint disposal facility to ensure drums do not remain on project site longer than 90 calendar days from drum label date.
- F. Waste Disposal:
1. Do not store hazardous waste drums in temporary storage location longer than 90 calendar days from drum label date.
  2. Remove, transport, and deliver drums to paint disposal facility.
    - a. Obtain signed receipt including date, time, quantity, and description of materials received according to 40 CFR Part 262.
    - b. Obtain final report of materials disposition after disposal completion.

END

## **SECTION 08211**

### **WOOD DOORS**

#### **PART 1 GENERAL**

##### **1.01 SECTION INCLUDES**

- A. The work contemplated under this Section consists of the furnishing of all labor, materials, equipment and services required for the installation of all wood doors as indicated on the accompanying working drawings or as specified herein.
- B. The following items are listed as a guide in determining the Project requirements, but not necessarily limited to the following:
  - 1. Stile and rail wood doors.

##### **1.02 SPECIAL INSTRUCTIONS, NOT CONTAINED HEREIN**

- A. This contractor is referred to "Instructions to Contractors" for complete information regarding any special instructions affecting his bid or his work on this Project.

##### **1.03 REFERENCES**

- A. AWI-P-200 - Architectural Woodwork Quality Standards Illustrated; Architectural Woodwork Institute
- B. HPVA HP-1 - American National Standard for Hardwood and Decorative Plywood; Hardwood Plywood & Veneer Association.
- C. NFPA 80 - Standard for Fire Doors and Fire Windows; National Fire Protection Association.
- D. NFPA 252 - Standard Methods of Fire Tests of Door Assemblies; National Fire Protection Association.
- E. UL (BMD) - Building Materials Directory; Underwriters Laboratories Inc.; current edition.
- F. WH (CERT) - Certification Listings; Warnock Hersey.
- G. I.S.6-A-13 - Industry Standards for Architectural Wood Stile & Rail Doors.

##### **1.04 SUBMITTALS**

- A. Product Data: Indicate door core materials and construction; veneer species, type and characteristics.
- B. Shop Drawings: Illustrate door opening criteria, elevations, sizes, types, swings, undercuts required, special beveling, special blocking for hardware, factory machining criteria, factory finishing criteria, identify cutouts for glazing and louvers.
- C. Samples: Submit two samples of door veneer, 6 x 6 inch in size illustrating wood grain, stain color, and sheen.
- D. Manufacturer's Installation Instructions: Indicate special installation instructions.

## **1.05 QUALITY ASSURANCE**

- A. Perform work in accordance with AWI Architectural Woodwork Quality Standards Illustrated, Section 1300, Custom Grade.

## **1.06 DELIVERY, STORAGE, AND PROTECTION**

- A. Package, deliver and store doors in accordance with AWI P-200, Section 1300.
- B. Accept doors on site in manufacturer's packaging. Inspect for damage.
- C. Protect doors with resilient packaging sealed with heat shrunk plastic. Do not store in damp or wet areas; or in areas where sunlight might bleach veneer. Seal top and bottom edges with tinted sealer if stored more than one week. Break seal on site to permit ventilation.

## **1.07 PROJECT CONDITIONS**

- A. Coordinate the work with door opening construction, door frame and door hardware installation.

## **1.08 WARRANTY**

- A. Warrant interior doors for a limited lifetime in interior use against warpage, delamination, and defects in materials and workmanship.
- B. Defects noted during warranty period shall be corrected at no cost to Owner. Corrective work shall include labor and material for repair, replacement, refinishing, and rehanging as required.

## **PART 2 PRODUCTS**

### **2.01 DOOR TYPES**

- A. Flush Door, Solid Wood Core:
  - 1. Furnish where indicated, "Flush Particleboard Doors" of sizes and thickness as shown on drawings, conforming to NWMA Industry Standards, current edition (AWI Custom Grade). Door assembly shall consist of wood flake core of minimum density 28 lbs./cf, hot press bonded with Type I waterproof adhesive to minimum 1/16" hardwood crossbanding. Face veneers shall be either Premium Grade Woods (species as indicated on drawings) or Medium Density Overlay faces (MDO). Provide 1 3/8" side edge strips of appropriate species and top and bottom 1 1/4" edge strips. At light openings, provide flush moldings of appropriate species for glazing by others.

### **2.02 FABRICATION**

- A. Fabricate doors in accordance with AWI Quality Standards requirements.
- B. Provide solid blocks at lock edge for hardware reinforcement.
  - 1. Provide solid blocking for other through bolted hardware.

- C. Fit door edge trim to edge of stiles after applying veneer facing.
- D. Bond edge banding to cores.
- E. Provide edge clearances in accordance with AWI 1600.

## **2.03 FINISH**

- A. Doors shall be factory primed for field painting, see spec. 09900.
  - 1. Contractor option to have doors shop painted, provide touch up paint as required after installation.

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

- A. Verify existing conditions before starting work.
- B. Verify that opening sizes and tolerances are acceptable.
- C. Do not install doors in frame openings that are not plumb or are out-of-tolerance for size or alignment.

### **3.02 INSTALLATION**

- A. Install doors in accordance with manufacturer's instructions and AWI P-200 requirements.
- B. Trim door height by cutting bottom edges to a maximum of  $\frac{3}{4}$  inch (19 mm).
- C. Machine cut for hardware
- D. Coordinate installation of doors with installation of frames and hardware.

### **3.03 INSTALLATION TOLERANCES**

- A. Conform to AWI P-200 requirements for fit and clearance tolerances.
- B. Conform to AWI P-200, Section 1300 for maximum diagonal distortion.

### **3.04 ADJUSTING**

- A. Adjust doors for smooth and balanced door movement.
- B. Adjust closers for full closure.

END

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## **SECTION 08710**

### **DOOR HARDWARE**

#### **PART 1 GENERAL**

##### **1.01 SCOPE OF WORK**

- A. The work contemplated under this Section consists of the furnishing of all labor, materials, equipment and services required for the installation of all hardware as indicated on the accompanying working drawings or as specified herein.
- B. The following items are listed as a guide in determining the Project requirements, but not necessarily limited to the following:
  - 1. Hardware for the wood doors.

##### **1.02 SPECIAL INSTRUCTIONS, NOT CONTAINED HEREIN**

- A. This Contractor is referred to "Instructions to Contractors" for complete information regarding any special instructions affecting his bid or his work on this Project.

##### **1.03 REFERENCES**

- A. DHI(LOCW) - Recommended Locations for Architectural Hardware for Flush Wood Doors; Door and Hardware Institute.
- B. UL(BMD) - Building Materials Directory; Underwriters Laboratories, Inc.

##### **1.04 SUBMITTALS**

- A. Shop Drawings:
  - 1. Indicate locations and mounting heights of each type of hardware, schedules, catalog cuts.
  - 2. Submit manufacturer's parts lists.
- B. Manufacturer's Installation Instructions: Indicate special procedures, perimeter conditions requiring special attention.
- C. Warranty: Submit manufacturer's warranty and ensure that forms have been completed in Owner's name and registered with manufacturer.

##### **1.05 QUALITY ASSURANCE**

- A. Perform work in accordance with the following requirement:
  - 1. NFPA 101.
  - 2. NFPA 80.
  - 3. NFPA 252.
  - 4. NFPA 1221
- B. Hardware Supplier Qualifications: Company specializing in supplying commercial door hardware with 5 years of documented experience.

## **1.06 REGULATORY REQUIREMENTS**

- A. Conform to applicable code for requirements applicable to fire rated doors and frames.

## **1.07 DELIVERY, STORAGE, AND PROTECTION**

- A. Package hardware items individually; label and identify each package with door opening code to match hardware schedule.

## **1.08 COORDINATION**

- A. Coordinate the work with other directly affected sections involving manufacture or fabrication of internal reinforcement for door hardware.
- B. Furnish templates for door and frame preparation.

## **1.09 MAINTENANCE PRODUCTS**

- A. Provide special wrenches and tools applicable to each different or special hardware component.
- B. Provide maintenance tools and accessories supplied by hardware component manufacturer.

## **PART 2 PRODUCTS**

### **2.01 MATERIALS**

- A. Manufacturers named, substitutions therefore:
  - 1. The named manufacturers and their catalog numbers are used herein to establish quality required; however it is not intended to necessarily limit the Contractor to the manufacturers mentioned. Manufacturers not named herein may be considered upon request, in writing, to the Architect a minimum of 7 days prior to the bid date.

### **2.02 HARDWARE TYPES**

- A. Hinges:
  - 1. Wrought steel, 5-knuckle, full mortise hinge, standard weight concealed bearing. Hinges shall be 3 ½" by 3 ½"; polished steel, prime coated for paint finish.
    - a. Manufacturer: PBB Hinges – "BB81"
- B. Locksets:
  - 1. Vertical rim lock, solid forged brass, with epoxy coated set screw. Passage function on all doors. Contractor to verify lock handing.
    - a. Manufacturer: Baldwin Hardware 5604 Series. "Satin Black" finish.

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

- A. Verify that doors and frames are ready to receive work and dimensions are as indicated on shop drawings.

### **3.02 INSTALLATION**

- A. Install hardware in accordance with manufacturer's instructions.
- B. Use templates provided by hardware item manufacturer.
- C. Mounting heights for hardware from finished floor to center line of hardware item.
  - 1. For wood doors: Comply with DH1 "Recommended Locations for Architectural Hardware for Flush Wood Doors."

### **3.03 ADJUSTING**

- A. Adjust hardware for smooth operation.

### **3.04 PROTECTION OF FINISHED WORK**

- A. Do not permit adjacent work to damage hardware or finish work.

END 08710

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## **SECTION 09650**

### **RESILIENT FLOORING**

#### **PART 1 GENERAL**

##### **1.01 SECTION INCLUDES**

- A. The work contemplated under this section consists of the furnishing of all labor, materials, equipment and services required for the installation of all resilient flooring as indicated on the accompanying working drawings or as specified herein.
- B. The following items are listed as a guide in determining the project requirements, but not necessarily limited to the following:
  - 1. Resilient base.

##### **1.02 SPECIAL INSTRUCTIONS, NOT CONTAINED HEREIN**

- A. This contractor is referred to "Instructions to Contractors" for complete information regarding any special instructions affecting his bid or his work on this project.

##### **1.03 SUBMITTALS**

- A. Product Data: Provide data on specified products, describing physical and performance characteristics; including sizes, patterns and colors available; and installation instructions.

##### **1.04 DELIVERY, STORAGE, AND PROTECTION**

- A. Protect roll materials from damage by storing on end.

##### **1.05 ENVIRONMENTAL REQUIREMENTS**

- A. Store materials for not less than 48 hours prior to installation in area of installation at a temperature of 70 degrees F (21 degrees C) to achieve temperature stability. Thereafter, maintain conditions above 55 degrees F (13 degrees C).

##### **1.06 EXTRA MATERIALS**

- A. Provide 10 sq. ft of flooring and 20 lineal feet of base of each type and color specified.

#### **PART 2 PRODUCTS**

##### **2.01 MATERIALS**

- A. Resilient Cove Base shall be 3 1/8" high, 1/8 inch thick, of "set-on" type with ribbed back. Base shall be furnished in minimum 48 inch lengths. Color as selected by the Architect.

1. Tarkett: TightLock Resilient Base.
2. Equal as approved by Architect.

## **2.02 ACCESSORIES**

- A. Primers and Adhesives: Waterproof; types recommended by adhesive material manufacturer.

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

- A. Verify that wall surfaces are smooth and flat, are dust-free, and are ready to receive resilient base.

### **3.02 PREPARATION**

- A. Clean substrate.
- B. Apply primer as required to prevent "bleed-through" or interference with adhesion by substances that cannot be removed.

### **3.03 INSTALLATION - BASE**

- A. Fit joints tightly and make vertical. Maintain minimum dimension of 18 inches between joints.
- B. Miter internal corners. At external corners, 'V' cut back of base strip to 2/3 of its thickness and fold. At exposed ends, use pre-molded units.
- C. Install base on solid backing. Bond tightly to wall and floor surfaces.
- D. Scribe and fit to door frames and other interruptions.

### **3.04 CLEANING**

- A. Remove excess adhesive from floor, base, and wall surfaces without damage.

END

## SECTION 09 9100

### PAINTING

#### PART 1 - GENERAL

##### 1.1 SUMMARY

- A. Section includes surface preparation and the application of paint systems on the following interior and exterior substrates:
  - 1. Steel and iron.
  - 2. Galvanized metal.
  - 3. Wood.
  - 4. Gypsum board and plaster.

##### 1.2 DEFINITIONS

- A. MPI Gloss Level 1: Not more than five units at 60 degrees and 10 units at 85 degrees, according to ASTM D 523.
- B. MPI Gloss Level 2: Not more than 10 units at 60 degrees and 10 to 35 units at 85 degrees, according to ASTM D 523.
- C. MPI Gloss Level 3: 10 to 25 units at 60 degrees and 10 to 35 units at 85 degrees, according to ASTM D 523.
- D. MPI Gloss Level 4: 20 to 35 units at 60 degrees and not less than 35 units at 85 degrees, according to ASTM D 523.
- E. MPI Gloss Level 5: 35 to 70 units at 60 degrees, according to ASTM D 523.
- F. MPI Gloss Level 6: 70 to 85 units at 60 degrees, according to ASTM D 523.
- G. MPI Gloss Level 7: More than 85 units at 60 degrees, according to ASTM D 523.

##### 1.3 ACTION SUBMITTALS

- A. Product Data: For each type of product. Include preparation requirements and application instructions.
  - 1. Include Printout of current "MPI Approved Products List" for each product category specified, with the proposed product highlighted.
- B. Samples: For each type of paint system and in each color and gloss of topcoat.

#### PART 2 - PRODUCTS

##### 2.1 MANUFACTURERS

- A. Manufacturers: Subject to compliance with requirements, provide products by one of the following:
  - 1. Sherwin-Williams Company (The).
  - 2. Color as provided by Owner.
- B. Products: Subject to compliance with requirements, provide product listed in the Interior Painting Schedule for the paint category indicated.

## 2.2 PAINT, GENERAL

- A. MPI Standards: Products shall comply with MPI standards indicated and shall be listed in its "MPI Approved Products Lists."
- B. Material Compatibility:
  - 1. Materials for use within each paint system shall be compatible with one another and substrates indicated, under conditions of service and application as demonstrated by manufacturer, based on testing and field experience.
  - 2. For each coat in a paint system, products shall be recommended in writing by topcoat manufacturers for use in paint system and on substrate indicated.

## PART 3 - EXECUTION

### 3.1 EXAMINATION

- A. Examine substrates and conditions, with Applicator present, for compliance with requirements for maximum moisture content and other conditions affecting performance of the Work.
- B. Maximum Moisture Content of Substrates: When measured with an electronic moisture meter as follows:
  - 1. Wood: 15 percent.
  - 2. Gypsum Board: 12 percent.
  - 3. Plaster: 12 percent.
- C. Verify suitability of substrates, including surface conditions and compatibility with existing finishes and primers.
- D. Proceed with coating application only after unsatisfactory conditions have been corrected.
  - 1. Application of coating indicates acceptance of surfaces and conditions.

### 3.2 PREPARATION

- A. Comply with manufacturer's written instructions and recommendations in "MPI Architectural Painting Specification Manual" applicable to substrates and paint systems indicated.
- B. Remove hardware, covers, plates, and similar items already in place that are removable and are not to be painted. If removal is impractical or impossible because of size or weight of item, provide surface-applied protection before surface preparation and painting.
  - 1. After completing painting operations, use workers skilled in the trades involved to reinstall items that were removed. Remove surface-applied protection if any.

### 3.3 APPLICATION

- A. Apply paints according to manufacturer's written instructions and recommendations in "MPI Architectural Painting Specification Manual."
- B. Apply paints to produce surface films without cloudiness, spotting, holidays, laps, brush marks, roller tracking, runs, sags, ropiness, or other surface imperfections. Cut in sharp lines and color breaks.



### 3.4 INTERIOR PAINTING SCHEDULE

- A. Steel Substrates:
  - 1. Latex System, Alkyd Primer MPI INT 5.1Q:
    - a. Prime Coat: Primer, alkyd, anti-corrosive, for metal, MPI #79.
      - 1) Sherwin Williams: Kem Bond HS
    - b. Intermediate Coat: Latex, interior, matching topcoat.
    - c. Topcoat: Latex, interior (MPI Gloss Level 3), MPI #52.
      - 1) Sherwin Williams: ProMar 200 Zero VOC Eggshell
- B. Galvanized-Metal Substrates:
  - 1. Latex System MPI INT 5.3A:
    - a. Prime Coat: Primer, galvanized, water based, MPI #134.
      - 1) Sherwin Williams: DTM Acrylic Primer/Finish
    - b. Intermediate Coat: Latex, interior, matching topcoat.
    - c. Topcoat: Latex, interior (MPI Gloss Level 3), MPI #52.
- C. Wood Substrates: Wood doors and trim.
  - 1. Latex over Latex Primer System MPI INT 6.3T:
    - a. Prime Coat: Primer, latex, for interior wood, MPI #39.
      - 1) Sherwin Williams: PrepRite ProBlock
    - b. Intermediate Coat: Latex, interior, matching topcoat.
    - c. Topcoat: Latex, interior (MPI Gloss Level 3), MPI #52.
      - 1) Sherwin Williams: ProMar 200 Zero VOC Eggshell
- D. Gypsum Board and Plaster Substrates:
  - 1. Latex over Latex Sealer System MPI INT 9.2A:
    - a. Prime Coat: Primer sealer, latex, interior, MPI #50.
      - 1) Sherwin Williams: ProMar 200 Zero VOC
    - b. Intermediate Coat: Latex, interior, matching topcoat.
    - c. Topcoat (for Gypsum Board Ceilings): Latex, interior, flat (MPI Gloss Level 1), MPI #53.
      - 1) Sherwin Williams: ProMar 200 Zero VOC Flat or SherScrub Supreme Flat
    - d. Topcoat (for Gypsum Board Walls): Latex, interior (MPI Gloss Level 3), MPI #52.
      - 1) Sherwin Williams: ProMar 200 Zero VOC Eggshell

**END OF SECTION 09 9100.**

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