
**REQUEST FOR PROPOSALS (RFP)
SOLICITATION NO. H-347-00**

**RETIREMENT PLAN PROVIDER AND/OR
ADMINISTRATOR**



**CHATTANOOGA HOUSING AUTHORITY
CHATTANOOGA, TN**

Request for Proposals Issued August 5, 2011
Presubmission Conference – 11:00 A.M. EDT, Thursday, August 18, 2011
Proposals Due - 3:00 P.M. EDT, Wednesday, August 31, 2011

Table of Contents

| Section | Description | Page |
|---------|---|------|
| | Introduction | 1 |
| | RFP Information at a Glance | 1 |
| 1.0 | HA'S Reservation of Rights | 2 |
| 2.0 | Scope of Work/Technical Specifications | 2 |
| 2.1 | General Plan Information | 3 |
| 2.2 | Areas of Service | 3 |
| 2.3 | Additional Requirements | 4 |
| 2.4 | Current Contractor | 4 |
| 3.0 | Proposal Format | 5 |
| 3.1 | Tabbed Proposal Submittal | 5 |
| 3.2 | Entry of Proposed Fees | 7 |
| 3.3 | Quantities | 7 |
| 3.4 | Escalation | 7 |
| 3.5 | Proposal Submission | 7 |
| 3.6 | Proposer's Responsibilities - Contact With the HA | 8 |
| 3.7 | Presubmission Conference | 9 |
| 3.8 | Recap of Attachments | 9 |
| 4.0 | Proposal Evaluation | 10 |
| 4.1 | Evaluation Factors | 10 |
| 4.2 | Evaluation Method | 11 |
| 5.0 | Contract Award | 13 |
| 5.1 | Contract Award Procedure | 13 |
| 5.2 | Contract Conditions | 13 |
| 5.3 | Contract Period | 14 |
| 5.4 | Licensing and Insurance Requirements | 14 |
| 5.5 | Right to Negotiate Fees | 15 |
| 5.6 | Contract Services Standards | 15 |

List of Tables

| Table | Description | Page |
|-------|--|------|
| 1 | RFP Information at a Glance | 1 |
| 2 | General Plan Information As of June 30, 2011 | 3 |
| 3 | Tabbed Proposal Submittal | 5 |
| 4 | Recap of Attachments | 9 |
| 5 | Evaluation Factors | 10 |

List of Exhibits

| Exhibit | Description |
|---------|---|
| A | Retirement Plan Services Proposal Questionnaire |
| B | Current Plan Quarterly Report 4/1/11-6/30/11 |

INTRODUCTION

The Chattanooga Housing Authority (hereinafter, “HA” or “CHA”) is a public entity that was formed in 1938 to provide federally subsidized housing and housing assistance to low-income families within the Chattanooga area. The HA is headed by an Executive Director (ED), is governed by a seven-person Board of Commissioners, and is subject to the requirements of Title 24 of the Code of Federal Regulations (hereinafter, “CFR”) and the HA’s procurement policy. Though brought into existence by a Resolution of the City of Chattanooga, it is a separate entity from it.

Currently, the HA has approximately 135 employees, manages almost 3,000 public housing units, and administers a total of 3,140 Section 8 Housing Choice Vouchers, totaling over 6,000 potential assisted units.

In keeping with its mandate the HA is now soliciting proposals from qualified licensed and insured brokers, banks, or other financial institutions interested in and capable of providing an agency-wide Retirement Savings Plan in accordance with IRS Code 457(b) requirements. All proposals submitted in response to this solicitation must conform to all of the requirements and specifications outlined within this document in its entirety and any designated attachments.

RFP INFORMATION AT A GLANCE

[Table No. 1]

| | |
|---|--|
| HA CONTACT PERSON | ANDREW LAWRENCE, Procurement Officer (PO), Telephone (423-752-4867), FAX (423-752-4178), alawrence@chahousing.org or DEBBIE CHADWICK, Purchasing Agent (PA), Telephone (423-752-4192), dchadwick@chahousing.org |
| HOW TO OBTAIN THE RFP DOCUMENTS | <ol style="list-style-type: none"> 1. Access www.chahousing.org. 2. Click on “Procurement/RFPs” button on the left side. 3. Click on “RFP H-347-00 - RETIREMENT PLAN PROVIDER AND/OR ADMINISTRATOR,” or 4. Pick up a copy at address below. <p>If you have any problems in accessing the documents, please call Debbie Chadwick at 423-752-4192.</p> |
| PRESUBMISSION CONFERENCE | Thursday, August 18, 2011, 11:00 A.M. CHA Central Office Board Room 801 N. Holtzclaw Avenue, Chattanooga, TN 37404 |
| HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL | <ol style="list-style-type: none"> 1. Submit tabbed proposal as directed within Section 3.1 of the RFP document. 2. As instructed within Section 3.0 of the RFP document, submit 1 original and 3 copies of your “hard copy” proposal to the HA Procurement Department. |
| PROPOSAL SUBMITTAL RETURN & DEADLINE | <p><u>*Wednesday, August 31, 2011, 3:00 PM EDT</u> ATTN: Andrew Lawrence, Procurement Officer, Chattanooga Housing Authority, 801 N. Holtzclaw Ave., Chattanooga, TN 37404 *(The “hard copy” proposal must be received in-hand and time-stamped by the HA by no later than <u>3:00 p.m.</u> on this date).</p> |
| ANTICIPATED APPROVAL BY HA BOARD OF COMMISSIONERS | Tuesday, September 27, 2011 or October 25, 2011 CHA Central Office Board Room 801 N. Holtzclaw Avenue, Chattanooga, TN 37404 |

1.0 HA'S RESERVATION OF RIGHTS:

- 1.1 The HA reserves the right to reject any or all proposals, to waive any informality in the RFP process, to reissue a Request for Proposals, or to terminate the RFP process at any time, if deemed by the HA to be in its best interests.
- 1.2 The HA reserves the right not to award a contract pursuant to this RFP.
- 1.3 The HA reserves the right to award by individual line item, by a group of line items, or as a total, whichever is deemed most advantageous to the HA.
- 1.4 The HA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon ninety (90) days written notice to the successful proposer(s).
- 1.5 The HA reserves the right to determine the days, hours, and locations that the successful proposer(s) shall provide the services called for in this RFP.
- 1.6 The HA reserves the right to retain all proposals submitted and not permit withdrawal for a period of ninety (90) days subsequent to the deadline for receiving proposals without the written consent of the HA Contracting Officer (CO).
- 1.7 The HA reserves the right to negotiate the fees proposed by the proposer entity.
- 1.8 The HA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- 1.9 The HA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- 1.10 The HA shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. By accessing the HA website and by downloading this document from the website or a direct e-mail, each prospective offeror is thereby agreeing to abide by all terms and conditions listed within this document, and further agrees that he/she will inform the CO or designee in writing within 5 days of the discovery of any item listed herein or of any item that is issued thereafter by the HA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve the HA, but not the prospective offeror, of any responsibility pertaining to such issue.
- 1.11 The HA reserves the right to procure services covered by the resultant contract(s) from other sources when the HA determines it is in its best interest.

2.0 SCOPE OF WORK (SOW)/TECHNICAL SPECIFICATIONS (T/S): The HA is seeking proposals from qualified licensed and insured brokers, banks, or other financial institutions to provide and/or administer an agency-wide Retirement Savings Plan as more fully detailed in this RFP. The HA intends that these specifications set forth and convey to prospective Offerors the general type, character, and quality of the retirement savings plan services desired.

2.1 General Plan Information: Profit Sharing/457(b) Pension Plan

[Table No. 2]

| GENERAL PLAN INFORMATION AS OF JUNE 30, 2011 | |
|--|--|
| Plan Name | Chattanooga Housing Authority Retirement Plan |
| Effective Date | September 1, 1950 |
| Plan Value | \$5,414,623 |
| Type of Plan | Hybrid [Money Purchase, 457(b) Deferrals & Profit Sharing] |
| Number of Participants | 127 Current Employees; 18 Retirees |
| Loans Allowed | Yes [Max=lesser of \$50,000 50% vested balance; Min=\$1,000] |
| Retirement Date: | Normal Age 65 Early (None) |
| Statement Delivery | Quarterly statements directly to participants; Valuation report to CHA |
| 2011 Est. Contributions | \$400,000 |
| Frequency of Contributions | Biweekly |
| Plan Year End | December 31 |
| Current Provider | USI Consulting Group, Inc./Wells Fargo |
| Current Investment Advisor | USI Consulting Group, Inc. |
| Current Fund Investments | See quarterly statement included as Exhibit B |
| Outstanding Loans | \$274,656 |

2.2 Areas of Service: Offeror must provide all information requested in the attached Retirement Plan Services Proposal Questionnaire and submit it as a separate document from the rest of the proposal. The information and/or workplan submitted under Tab No. 5 shall, in addition, more fully detail the proposer's offer by including any other information under this section not included in the questionnaire that is requested in Section 3.1.

2.2.1 Customer Service: Firm must be able to respond to all employer concerns within 24 hours or less.

2.2.2 Supplies: Firm must supply adequate education and enrollment materials.

2.2.3 Value Added Services:

2.2.3.1 Describe any in-service/training Firm would agree to provide to the HA. Please include frequency and associated costs, if any.

2.2.3.2 Submit a full description of any other value-added services not detailed herein that are available to the HA or its employees.

2.3 Additional Requirements:

2.3.1 Prices are to be guaranteed for ninety (90) days during the evaluation process.

2.3.2 All forms must be signed for the proposal to be considered valid.

2.3.3 Where percent of increase is requested for multiyear proposals, this must be stated in a fixed percentage or a fixed range. (Example: 1% or 0%-1%)

2.3.4 Offeror agrees to provide pictures and literature on supplies to be used in the enrollment process. Additional employee communication information should be submitted on a separate sheet of paper, referenced as an appendix, and included with the proposal. (Anything that is not already included in Exhibit A.)

2.3.5 All invoicing/billing must be itemized by line item according to purchase order or as agreed upon in negotiations unless the vendor agrees to accept the Plan sponsor's self-administered billing process. All invoices must be dated and numbered and include the purchase order and/or contract number. All invoices not meeting requirements will be returned.

2.3.6 An integral part of our philosophy is ensuring that our vendors are committed to continuous improvement of their products and services.

2.3.7 The offeror acknowledges that information disclosed to it concerning HA operations during the solicitation or performance of the contract is confidential and/or proprietary to the HA and shall not be disclosed to third parties without the HA's prior written consent.

2.3.8 All deliveries and/or other products of the contract (including but not limited to all purchases, solicitation packages, reports, records, summaries, software documentation and other matter and materials prepared or developed by the offeror in performance of this contract) shall be the sole, absolute and exclusive property of the HA, free from any claim or retention of rights thereto on the part of the offeror, its agents, subcontractors, officers, or employees.

2.4 **Current Contractor:** The HA's current contractor for these services is USI Consulting Group, Inc. of Glastonbury, Connecticut, who was retained in March, 2005 pursuant to RFP No. E040100132.

3.0 PROPOSAL FORMAT:

3.1 **Tabbed Proposal Submittal:** The HA intends to retain the successful proposer pursuant to a “Best Value” basis, not a “Low Proposal” basis (“Best Value,” in that the HA will, as detailed within the following Section 4.0, consider factors other than just cost in making the award decision). Therefore, so that the HA can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted following. Each category must be separated by numbered index dividers (which number extends so that each tab can be located without opening the proposal) and labeled with the corresponding tab reference also noted below. None of the proposed services may conflict with any requirement the HA has published herein or has issued by addendum.

[Table No. 3]

| RFP Section | Tab No. | Description |
|-------------|---------|--|
| 3.1.1 | 1 | Proposal Form (Attachment A): This completed and executed 3-page Form must be submitted under this tab. |
| 3.1.2 | 2 | Employer's Fixed Fee Schedule (Attachment B) (See also Section 4.1, Evaluation Factor No. 3.) |
| 3.1.3 | 3 | Form HUD-5369-C (8/93), Certifications and Representations of Offerors, Non-Construction Contract (Attachment C): This completed and executed 2-page Form must be submitted under this tab. |
| 3.1.4 | 4 | Profile of Firm (Attachment D): This completed and executed 2-page Form must be submitted under this tab. |
| 3.1.5 | 5 | Proposed Services (See 3.1.11 below): As more fully detailed within Section 2.0, <i>Scope of Work/Technical Specifications</i> , of this document, the proposer shall, at a minimum, clearly detail within the information submitted under this tab documentation showing: |
| 3.1.5.1 | | As detailed within Section 4.1, Evaluation Factor No. 1, herein, the proposer's FINANCIAL REPUTATION and PAST EXPERIENCE in providing retirement plan services to similar entities. Include the proposer's Demonstrated Experience in performing similar work and the proposer's Demonstrated Successful Past Performance (including meeting costs, schedules, and performance requirements, and satisfaction of clients). |
| 3.1.5.2 | | As detailed within Section 4.1, Evaluation Factor No. 2, herein, the proposed NUMBER AND NAMES (with category) OF INVESTMENT ALTERNATIVES offered. |
| 3.1.5.3 | | As detailed within Section 4.1, Evaluation Factor No. 5, herein, the proposer's ABILITY TO ACCESS INTERIM STATEMENTS via web or other interface. |
| 3.1.5.4 | | As detailed within Section 4.1, Evaluation Factor No. 6, herein, the GEOGRAPHIC PRESENCE of proposer. |

| | | |
|---------|----|--|
| 3.1.5.5 | | An explanation and copies of forms that will be used and reports that will be submitted and the method of such reports (i.e. written; fax; internet; etc.); |
| 3.1.5.6 | | A complete description of the products and services the firm provides. |
| 3.1.6 | 6 | Client Information: The proposer shall submit a listing of at least 3 former and 3 current defined contribution administration clients, comparable in size to our company, with a brief explanation of why the former clients no longer use proposer's services. The listing shall, at a minimum, include: |
| 3.1.6.1 | | The client's name; |
| 3.1.6.2 | | The client's contact name; |
| 3.1.6.3 | | The client's telephone number; |
| 3.1.6.4 | | A brief description and scope of the service(s) and the dates the services were provided; |
| 3.1.7 | 7 | Section 3: Executed Section 3 Clause - Required (#S3-8). [Section 3 Business Preference Documentation - Optional: For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Certification Form (#S3-5) and any documentation required by that form.] (See Attachment E). |
| 3.1.8 | 8 | Subcontractor/Joint Venture Information (Optional Item): The proposer shall identify hereunder whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the proposal is a joint venture with another firm. Please remember that all information required from the proposer under the proceeding tabs must also be included for any major subcontractors (10% or more) or from any joint venture. |
| 3.1.9 | 9 | Other Required HUD/CHA Certifications (As listed in Section 3.6, Table 4) |
| 3.1.10 | 10 | Other Information (Optional Item): The proposer may include hereunder any other general information that the proposer believes is appropriate to assist the HA in its evaluation. |

3.1.11 *Entire Retirement Plan Services Proposal Questionnaire (Exhibit A) with responses and requested examples and samples shall be submitted as a separate document. Information requested under the tabs outlined above which is included within the Questionnaire document may just be referenced behind the tab, such as: "See Questionnaire Sections A, B.2, D.6," etc. However, use the Subheadings under Tab 5 to show which Questionnaire Sections apply to each subheading. Proposer may also provide any additional information not included in Questionnaire document which may affect the HA's evaluation.*

- 3.1.12** If no information is to be placed under any of the above noted tabs (especially the "Optional" tabs), please place there under a statement such as "NO INFORMATION IS BEING PLACED UNDER THIS TAB" or "THIS TAB LEFT INTENTIONALLY BLANK." DO NOT eliminate any of the tabs.
- 3.1.13 Proposal Submittal Binding Method:** It is preferable and recommended that the proposer bind the proposal submittals in such a manner that the HA can, if needed, remove the binding (i.e. "comb-type;" etc.) or remove the pages from the cover (i.e. 3-ring binder; etc.) to make copies then conveniently return the proposal submittal to its original condition.
- 3.2 Entry of Proposed Fees:** The administrative fees proposed for the HA (Employer) to pay shall be submitted by the proposer on the Employer Fixed Fee Schedule (Attachment B) and submitted behind Tab No. 2. Unless otherwise stated, the proposed fees are all-inclusive of all related costs that the successful proposer will incur to provide the noted services, including, but not limited to: employee wages and benefits; clerical support; overhead; profit; licensing; insurance; tools; equipment; long distance telephone calls; travel expenses; document copying; etc.
- 3.3 Quantities:** All quantities entered on the Employer's Fixed Fee Schedule (Attachment B) are for comparison purposes only. As may be further detailed herein, the HA does not guarantee any minimum or maximum amount of work as a result of any award ensuing from this RFP. The HA shall retain the right to order from successful proposer any amount of services or items that the HA requires during the ensuing contract period(s).
- 3.4 Escalation:** Pertaining to the ensuing contract, there shall be no escalation of the proposed unit costs allowed at any time during the awarded contract periods. The successful proposer guarantees, by submitting a proposal, that he/she will guarantee or hold without an increase all proposed costs on Employer's Fixed Fee Schedule (Attachment B). If the successful proposer chooses to not hold or guarantee the originally proposed costs (and the successful proposer may only do so by delivery to the HA of a written notice delivered to the CO at least 120 days prior to the end of the contract period), the HA will not force the successful proposer to renew the contract at the original pricing but may accept a proposed increase or elect to conduct a new competitive solicitation process, which the successful proposer may respond to (unless otherwise barred by the HA for default or poor performance or other similar cause).
- 3.5 Proposal Submission:** All proposals must be submitted and time-stamped received in the designated HA office by no later than the submittal deadline stated herein (or within any ensuing addendum). A total of 1 original signature copy (marked "ORIGINAL") and 3 exact copies (each of the 4 separate proposal submittals shall have a cover and extending tabs) of the proposal submittal, shall be placed unfolded in a sealed package and addressed to:

Attention: Andrew Lawrence
Procurement Officer
Chattanooga Housing Authority
801 N. Holtzclaw Avenue
Chattanooga, TN 37404

The package exterior must clearly denote the above noted RFP number and title, the proposer's name and return address, and the due date and time for receipt of proposals. Proposals received after the published deadline will not be accepted.

3.5.1 Submission Conditions: DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Proposers are not allowed to change any requirements or forms contained herein, either by making or entering onto these documents or the documents submitted any revisions or additions; and if any such additional marks, notations or requirements are entered on any of the documents that are submitted to the HA by the proposer, such may invalidate that proposal. If, after accepting such a proposal, the HA decides that any such entry has not changed the intent of the proposal that the HA intended to receive, the HA may accept the proposal and the proposal shall be considered by the HA as if those additional marks, notations or requirements were not entered on such. By accessing the noted website and downloading these documents, each prospective proposer that does so is thereby agreeing to confirm all notices that the HA delivers to him/her as instructed, and by submitting a proposal, the proposer is thereby agreeing to abide by all terms and conditions published herein and by addendum pertaining to this RFP.

3.5.2 Submission Responsibilities: It shall be the responsibility of each proposer to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by the HA, including the RFP document, the documents listed within the following Section 3.8, and any addenda and required attachments submitted by the proposer. By virtue of completing, signing and submitting the completed documents, the proposer is stating his/her agreement to comply with all conditions and requirements set forth within those documents. Written notice from the proposer not authorized in writing by the CO to exclude any of the HA requirements contained within the documents may cause that proposer to not be considered for award.

3.6 Proposer's Responsibilities - Contact With the HA: It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP process to the Procurement Officer (PO) only. Proposers must not make inquiry or communicate with any other HA staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for the HA to not consider a

proposal submittal received from any proposer who may has not abided by this directive.

3.6.1 Addenda: All questions and requests for information must be addressed in writing to the PO. The PO will respond to all such inquiries in writing by addendum to all prospective proposers (i.e. firms or individuals that have obtained the RFP Documents). During the RFP solicitation process, the PO will NOT conduct any *ex parte* (a substantive conversation—“substantive” meaning, when decisions pertaining to the RFP are made—between the HA and a prospective proposer when other prospective proposers are not present) conversations that may give one prospective proposer an advantage over other prospective proposers. This does not mean that prospective proposers may not call the PO, it simply means that, other than making replies to direct the prospective proposer where his/her answer has already been issued within the solicitation documents, the PO may not respond to the prospective proposer’s inquiries but will direct him/her to submit such inquiry in writing so that the PO may more fairly respond to all prospective proposers in writing by addendum.

3.7 Presubmission Conference: The scheduled presubmission conference identified on Page 2 of this document is, pursuant to HUD regulation, not mandatory. Many prospective proposers have previously responded to an RFP with a multi-tabbed submittal and feel comfortable in doing so without attending the presubmission conference. Typically, such conferences last 1 hour or less, though such is not guaranteed. The purpose of this conference is to assist prospective proposers in having a full understanding of the RFP documents so that he/she feels confident in submitting an appropriate proposal; therefore, at this conference the HA will conduct an overview of the RFP documents, including the attachments. Prospective proposers may also ask questions, though the PO may require that same such questions are delivered in writing prior to a response. Whereas the purpose of this conference is to review the RFP documents, attendees should bring a copy of the RFP documents to this conference as the HA *will not* distribute at this conference any copies of the RFP documents.

3.8 Recap of Attachments: It is the responsibility of each proposer to verify that he/she has downloaded the following attachments pertaining to this RFP, which are hereby by reference included as a part of this RFP:

[Table No. 4]

| RFP Section | Attachment | Attachment Description |
|-------------|------------|--|
| 3.8.1 | A | Proposal Form |
| 3.8.2 | B | Employer's Fixed Fee Schedule |
| 3.8.3 | C | Form HUD-5369-C (8/93), <i>Certifications and Representations of Offerors, Non-Construction Contract</i> |
| 3.8.4 | D | Profile of Firm Form |
| 3.8.5 | E | Section 3 Forms, including explanation |
| 3.8.6 | F | <i>HA Instructions To Offerors for Service Contracts</i> |

| | | |
|---------|-----|--|
| 3.8.7 | G | Form HUD-5369-B (8/93), <i>Instructions to Offerors, Non-Construction</i> |
| 3.8.8 | H | HA Sample Contract Form (please note that this contract is being given as a sample only - the HA reserves the right to revise any clause herein and/or to include within the ensuing contract any additional clauses that the HA feels it is in its best interests to do so) |
| 3.8.8.1 | H-1 | Form HUD-5370-C (10/2006), <i>General Conditions for Non-Construction Contracts Section I (With or without Maintenance Work)</i> |
| 3.8.9 | I | Mandatory Clauses |
| 3.8.10 | | Additional Forms/Certifications Required to be Submitted: 1) Corporate or Partnership Certificate 2) Equal Employment Opportunity Form 3) Affirmative Action Plan 4) Certification for a Drug-Free Workplace (HUD-50070) 5) Certification of Payments to Influence Federal Transactions (HUD-50071) |

4.0 PROPOSAL EVALUATION:

4.1 Evaluation Factors: The Evaluation Committee reserves the right to make its selection or rejection solely upon the contents of the proposals received, although interviews may be conducted and financial or reference information or other information clarifying the components of the proposal may be requested from any offeror. The following factors will be utilized by the HA to evaluate each proposal submittal received; award of points for each listed factor will be based upon the documentation that the proposer submits within his/her proposal submittal:

[Table No. 5]

| NO. | MAX POINT VALUE | FACTOR TYPE | FACTOR DESCRIPTION |
|-----|-----------------|------------------------|---|
| 1 | 30 points | Subjective (Technical) | The FINANCIAL REPUTATION and PAST EXPERIENCE of firm in providing retirement plan services to similar entities. 10 points of this criterion shall be directly related to feedback from references from existing clients. |
| 2 | 25 points | Subjective (Technical) | The proposed NUMBER OF INVESTMENT ALTERNATIVES offered. |
| 3 | 20 points | Objective | The COMPETITIVENESS OF THE PROPOSED FEE STRUCTURE both direct and indirect in relation to other proposers. |
| 4 | 10 points | Subjective (Technical) | The COMPLETENESS AND RESPONSIVENESS OF PROPOSAL in relation to defined requirements. |
| 5 | 10 points | Subjective (Technical) | The ABILITY TO ACCESS INTERIM STATEMENTS via web or other interface. |

| | | | |
|---|------------|------------------------|--|
| 6 | 5 points | Subjective (Technical) | The GEOGRAPHIC PRESENCE of proposer. If offices are within 150 miles of CHA offices, all points are to be awarded. If not, it shall be responsibility of offeror to indicate how portfolio is to be serviced. |
| | 100 points | | Total Points |

4.2 Evaluation Method:

4.2.1 Initial Evaluation for Responsiveness: Each proposal received will first be evaluated for responsiveness (e.g., meets the minimum of the published requirements). The HA reserves the right to reject any proposals deemed by the HA not minimally responsive (the HA will notify such firms in writing of any such rejection).

4.2.2 Evaluation Packet for Proposals Deemed Responsive: Internally, an evaluation packet will be prepared for each evaluator, including the following documents:

- 4.2.2.1 Instructions to Evaluators;
- 4.2.2.2 Proposal Tabulation Form;
- 4.2.2.3 Written Narrative Justification Form for each proposer;
- 4.2.2.4 Recap of each proposer’s responsiveness;
- 4.2.2.5 Copy of all pertinent RFP documents.

4.2.3 Evaluation Committee: The HA anticipates that it will select a minimum of a three-person committee to evaluate each of the responsive “hard copy” proposals submitted in response to this RFP. PLEASE NOTE: No proposer shall be informed at any time during or after the RFP process as to the identity of any evaluation committee member. If, by chance, a proposer does become aware of the identity of such person(s), he/she SHALL NOT make any attempt to contact or discuss with such person anything related to this RFP. As detailed within Section 3.6 of this document, the designated PO is the only person at the HA that the proposers shall contact pertaining to this RFP. Failure to abide by this requirement may (and most likely will) cause such proposer(s) to be eliminated from consideration for award.

4.2.4 Proposal Presentation: If necessary, presentations and interviews will be scheduled during September 2011.

4.2.5 Evaluation: The appointed evaluation committee, independent of the PO or any other person at the HA, shall evaluate the responsive proposals submitted and award points pertaining to Evaluation Factors. Upon final completion of the proposal evaluation process,

the evaluation committee will forward the completed evaluations to the PO.

- 4.2.6 Potential "Competitive Range" or "Best and Finals" Negotiations:** The HA reserves the right to, as detailed within Section 7.2.N through Section 7.2.R of HUD Procurement Handbook 7460.8 REV 2, conduct a "Best and Finals" Negotiation, which may include oral interviews, with all firms deemed to be in the competitive range. Any firm deemed not to be in the competitive range shall be notified of such in writing by the HA in a timely manner as possible, but in any case within no longer than 10 days after the beginning of such negotiations with the firms deemed to be in the competitive range.
- 4.2.7 Determination of Top-ranked Proposer:** Typically, the subjective points awarded by the evaluation committee will be combined with the objective points awarded by the PO to determine the final rankings, which is typically forwarded by the PO to the CO [Executive Director (ED)] for approval. If the evaluation was performed to the satisfaction of the ED, the final rankings may be forwarded to the Housing Authority Board of Commissioners (BOC) at a scheduled meeting for approval. Contract negotiations may, at the HA's option, be conducted prior to or after the BOC approval.
- 4.2.7.1 Minimum Evaluation Results:** To be considered to receive an award a proposer must receive a total calculated average of at least 70 points (of the 100 total possible points detailed within Section 4.1 herein).
- 4.2.7.2 Ties:** In the case of a tie in points awarded, the award shall be decided as detailed within Section 6.12.C of HUD Procurement Handbook 7460.8 REV 2, by "drawing lots or other random means of selection."
- 4.2.8 Notice of Results of Evaluation:** If an award is completed after due consideration of the suitability, cost, and timeliness of delivery, all proposers will receive by e-mail a Notice of Award. Such notice shall inform all proposers of:
- 4.2.8.1** Which proposer received the award;
- 4.2.8.2** Where each proposer placed in the process as a result of the evaluation of the proposals received;
- 4.2.8.3** The cost or financial offers received from each proposer;
- 4.2.8.4** Each proposer's right to a debriefing and to protest.
- 4.2.9 Restrictions:** All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or

employees of a proposer entity will be excluded from participation on the HA evaluation committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on the HA evaluation committee.

5.0 CONTRACT AWARD:

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

5.1.1 By completing, executing and submitting the Proposal Form, Attachment A, the “proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HA,” including the contract clauses already attached as Attachments H and H-1. Accordingly, the HA has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published.

5.2 Contract Conditions: The following provisions are considered mandatory conditions of any contract award made by the HA pursuant to this RFP:

5.2.1 Contract Form: The HA will not execute a contract on the successful proposer’s form - contracts will only be executed on the HA form (please see Sample Contract, Attachments H and H-1), and by submitting a proposal the successful proposer agrees to do so (please note that the HA reserves the right to amend this form as the HA deems necessary). However, the HA will during the RFP process (prior to the submittal deadline) consider any contract clauses that the proposer wishes to include therein and submits in writing a request for the HA to do so; but the failure of the HA to include such clauses does not give the successful proposer the right to refuse to execute the HA’s contract form. It is the responsibility of each prospective proposer to notify the HA, in writing, prior to submitting a proposal, of any contract clause that he/she is not willing to include in the final executed contract and abide by. The HA will consider and respond to such written correspondence, and if the prospective proposer is not willing to abide by the HA’s response (decision), then that prospective proposer shall be deemed ineligible to submit a proposal.

5.2.1.1 Please note that the HA has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as a part of this RFP.

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

- 5.2.3 Unauthorized Subcontracting Prohibited:** The successful proposer shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the CO. Any purported assignment of interest or delegation of duty, without the prior written consent of the CO shall be void and may result in the cancellation of the contract with the HA, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract; either as determined by the CO.
- 5.3 Contract Period:** The HA anticipates that it will initially award a contract effective within three (3) months of award and for a initial period of two (2) years with the possibility of one (1) three-year extension.
- 5.4 Licensing and Insurance Requirements:** Prior to award (but not as a part of the proposal submission) the *successful proposer* will be required to provide:
- 5.4.1** An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage amount;
- 5.4.2** An original certificate evidencing General Liability coverage, naming the HA as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the HA as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a deductible of not greater than \$1,000;
- 5.4.3** An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$5,000,000), with a deductible of not greater than \$1,000;
- 5.4.4** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000;
- 5.4.5** A copy of the proposer's business license allowing that entity to provide such services within the City of Chattanooga, County of Hamilton, and/or State of Tennessee, as appropriate;
- 5.4.6** If applicable, a copy of the proposer's license issued by the State of Tennessee licensing authority allowing the proposer to provide the services detailed herein;

- 5.4.7 The requested related information shall also be entered where provided for on the Profile of Firm Form (DO SUBMIT LICENSING COPIES WITH THE PROPOSAL, but we will garner the necessary certificates of insurance from the successful proposer prior to contract execution).
- 5.5 **Right To Negotiate Final Fees:** The HA shall retain the right to negotiate the amount of fees that are paid to the successful proposer, meaning the fees proposed by the top-rated proposer may, at the HA's options, be the basis for the beginning of negotiations. Such negotiations shall begin after the HA has chosen a top-rated proposer. If such negotiations are not, in the opinion of the PO successfully concluded within 5 business days, the HA shall retain the right to end such negotiations and begin negotiations with the next-rated proposer. The HA shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e. top-rated first, then next-rated following until a successful negotiation is reached).
- 5.6 **Contract Service Standards:** All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

THIS PAGE INTENTIONALLY LEFT BLANK

PROPOSAL FORM
Attachment A

(This Form must be fully completed and placed under Tab No. 1 of the "hard copy" proposal submittal.)

Instructions: Respondents to the CHA Request for Proposals (RFP) for Retirement Plan Services Provider and/or Administrator, Solicitation No. H-347-00, must complete and submit this Proposal Form. Offerors not using this form to respond will not be considered. An original (so marked) and three (3) copies of this form and all items listed below must be completed and included in the proposal submittal. If more room is needed for a response to any request, please attach a sheet directly behind the pertinent page of the form and identify your response. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the "hard copy" proposal submittal submitted by the offeror.

The penalty for making false statements in any offer is prescribed in 18 U.S.C. 1001.

| X=ITEM INCLUDED | SUBMITTAL ITEMS <i>(Four copies of each bid, including one with original signatures and so marked)</i> |
|-----------------|---|
| _____ | Tab 1 Proposal Form (Attachment A) |
| _____ | Tab 2 Employer's Fixed Fee Schedule (Attachment B) |
| _____ | Tab 3 Form HUD-5369-C (Attachment C)) |
| _____ | Tab 4 Profile of Firm Form (Attachment D) |
| _____ | Tab 5 Proposed Services |
| _____ | Tab 6 Client Information |
| _____ | Tab 7 Section 3: Executed Section 3 Clause required - #S3-8 (Section 3 Business Preference Documentation Optional - #S3-5) (See Attachment E) |
| _____ | Tab 8 Subcontractor/Joint Venture Information (Optional) |
| _____ | Tab 9 Other Required HUD/CHA Certifications |
| _____ | Tab 10 Other Information (Any other information the bidder wants to include for evaluation) |
| _____ | Exhibit A: Retirement Plan Services Proposal Questionnaire, Responses, Examples, and Samples |

(Offeror)

(Street Address)

(City/State/Zip)

(Telephone/FAX)

(E-Mail Address)

(State License No.)

(Federal I.D. and/or SSN)

The above offeror is an: () Individual () Corporation () Partnership () Joint Venture consisting of _____, () licensed to do business in the State where project is located.

ADDENDA (Offeror acknowledges receipt of the following Addenda):

| | | | |
|--------------|-------|------|-------|
| Addendum No. | _____ | Date | _____ |
| Addendum No. | _____ | Date | _____ |
| Addendum No. | _____ | Date | _____ |

An official authorized to sign and negotiate on behalf of the firm submitting this proposal must sign this form below. Proposals must be valid for a period of at least 90 days.

In submitting this proposal, it is understood that the right is reserved by the HA to reject any and all proposals or to waive any informality in the proposals. If written notice of the acceptance of this proposal is delivered to the undersigned within 90 days after the opening thereof, or at any time thereafter before this proposal is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required insurance certifications no later than ten (10) days after the "Notice of Award" or "Intent to Award."

PROPOSAL FEES

Enter proposal fees on Employer's Fixed Fee Schedule (Attachment B) as directed in Section 3.2. The Total for the Initial Contract Period and the Potential for 5-Year Contract will be used for comparison and award of evaluation points for Evaluation Factor No. 3 (see RFP Section 4.1), together with fees and costs submitted in Exhibit A. The HA shall have the right to reject any proposal which indicates an unbalanced proposal or prices not realistic for the work.

CHA reserves the right to request oral information or additional written documentation to supplement any or all written proposals.

SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES___ or NO____. If "YES," pursuant to the Section 3 portion within the Conditions and Specifications, and pursuant to the documentation justifying such submittal under Tab No. 7, which priority are you claiming? _____.

OFFEROR'S STATEMENT/ACCEPTANCE OF CHA TERMS AND CONDITIONS

The undersigned offeror hereby states that by completing and submitting this Form and all other documents within this proposal submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if the HA discovers that any information entered herein to be false, such shall entitle the HA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal, and by entering and submitting the costs where provided, the undersigned offeror is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HA, either in hard copy or on the noted website,

including an agreement to execute the attached Sample Contract form. Pursuant to all RFP Documents, this Proposal Form, and all attachments, and pursuant to all completed Documents submitted, including these forms and all attachments, the undersigned proposes to supply the HA with the services described herein for the fee(s) entered on the Employer's Fixed Fee Schedule.

PERSON AUTHORIZED TO SIGN OFFER - Name and title (print or type)

Signature: _____

Date: _____

THIS PAGE INTENTIONALLY LEFT BLANK

THIS PAGE INTENTIONALLY LEFT BLANK

Certifications and Representations of Offerors

Non-Construction Contract

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

4. Organizational Conflicts of Interest Certification

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

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

PROFILE OF FIRM

- (1) Prime ____ Sub-contractor ____ (This form must be completed by and for each).
- (2) Name of Firm: _____ Telephone: _____ Fax: _____
- (3) Permanent Main Office Street Address, City, State, Zip: _____

- (4) Year Firm Established: _____
- (5) If a corporation, where incorporated: _____
- (6) Former Name and Year Established (if applicable): _____
- (7) Name of Parent Company and Date Acquired (if applicable): _____

(8) Identify Principals/Partners in Firm (submit a brief professional resume for each):

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

(9) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit a brief resume for each. (Do not duplicate any resumes required above):

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

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

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

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

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

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

WMBE Certification Number: _____

Certified by (Agency): _____

(NOTE: A Certification Number Not Required To Bid - Enter If Available)

REQUEST FOR PROPOSALS (RFP) NO. H-347-00 - Retirement Plan Provider and/or Administrator

- (11) Federal Tax ID No.: _____
- (12) [APPROPRIATE JURISDICTION] Business License No.: _____
- (13) State of _____ License Type and No.: _____
- (14) Workers Compensation Insurance Carrier: _____
Policy No.: _____ Expiration Date: _____
- (15) General Liability Insurance Carrier: _____
Policy No. _____ Expiration Date: _____
- (16) Professional Liability Insurance Carrier: _____
Policy No. _____ Expiration Date: _____
- (17) Credit available: \$ _____
- (18) Give bank reference: _____
- (19) Provide your Dun & Bradstreet D-U-N-S number if you have one: _____
- (20) Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Chattanooga Housing Authority? _____
- (21) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of Tennessee, or any local government agency within or without the State of Tennessee? Yes No
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (22) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the HA? Yes No
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (23) Non-Collusive Affidavit: The undersigned party submitting this bid hereby certifies that such bid is genuine and not collusive and that said bidder entity has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, to fix overhead, profit or cost element of said bid price, or that of any other bidder or to secure any advantage against the HA or any person interested in the proposed contract; and that all statements in said bid are true.
- (24) Verification Statement: The undersigned bidder hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HA discovers that any information entered herein is false, that shall entitle the HA to not consider nor make award or to cancel any award with the undersigned party.
- (25) The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Chattanooga Housing Authority in verification of the recitals comprising this Statement of Bidder's Qualifications.

Signature

Date

Printed Name

Company

CHATTANOOGA HOUSING AUTHORITY

Attachment D - Profile of Firm Form - Page 2

SECTION 3 INFORMATION FOR CONTRACTORS AND VENDORS

The following information and forms have been developed for the purpose of administering this Section 3 program and shall be used by bidders/proposers and by CHA monitors in their efforts to comply with certification and administrative requirements of Section 3. Additional copies of any Section 3 forms referenced within this Section 3 program may be obtained by contacting the Authority's Section 3 Coordinator.

“THE SECTION 3 CLAUSE”

A. The work to be performed under this contract is on a project assisted under a program providing direct Federal Financial assistance from the Department and 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 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

B. The parties to this contract shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Part CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor shall send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor shall include this Section 3 clause in every subcontract for work in connection with the project and shall, at the direction of the applicant for or recipient of Federal Financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor shall not subcontract with any subcontractor where it has notice or knowledge the latter has been found in violation of regulations under 24 CFR Part 135 and shall not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 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.

I hereby certify that (company name) _____, as Contractor on Section 3 covered project, shall comply with the Section 3 requirements as set forth above.

Typed Name: _____

Title: _____

Signature: _____

Date: _____

Chattanooga Housing Authority

SECTION 3 HIRING AND CONTRACTING

POLICY

Chattanooga Housing Authority (CHA) and its Contractors have an obligation to implement positive or “best effort” steps to recruit, employ, and utilize CHA Residents and other Section 3 eligible persons and businesses in connection with HUD-funded work. Therefore, the Authority’s Board of Commissioners has established employment and contracting goals, along with incentives, policies and sanctions intended to facilitate the attainment of those goals. The Section 3 policy and required forms and documentations are as referenced in this clause and shall be available upon request at the office of CHA by the Contract Specialist. All requests for Section 3 consideration of incentives shall be made a minimum of 5 days prior to bid opening.

A. Incentives:

A Section 3 Business is one which:

- Has majority ownership comprised of Section 3 Residents, or
- Has at least 30% of its permanent workforce comprised of Section 3 Residents, or
- Is a YouthBuild program operating in Hamilton County, or
- Subcontracts at least 25% of the overall contract amount to Section 3 Businesses

CHA offers bid incentives to contractors which qualify as Section 3 businesses. Incentives allow Section 3 businesses to be selected for a project even if the bid price is higher than the low bid, within the following limits:

| When The Lowest Responsive Bid Is: | The Section 3 Bid May Be This Much Higher |
|---|---|
| Less than \$100,000 | 10% of that bid or \$9,000 |
| At least \$100,000, but less than \$200,000 | 9% of that bid or \$16,000 |
| At least \$200,000, but less than \$300,000 | 8% of that bid or \$21,000 |
| At least \$300,000, but less than \$400,000 | 7% of that bid or \$24,000 |
| At least \$400,000, but less than \$500,000 | 6% of that bid or \$25,000 |
| At least \$500,000, but less than \$1 Million | 5% of that bid or \$40,000 |
| At least \$1 Million, but less than \$2 Million | 4% of that bid or \$60,000 |
| At least \$2 Million, but less than \$3 Million | 3% of that bid or \$80,000 |
| At least \$4 Million, but less than \$7 Million | 2% of that bid or \$105,000 |
| \$7 Million or more | 1-1/2% or the lowest bid with no dollar limit |

B. Contractor/Subcontractor Goal for Hiring Section 3 Residents:

CHA requires that Contractors performing work pursuant to construction and related professional service contracts make a good faith effort to ensure *that thirty percent (30%) of all new hires for Section 3 contracts are Section 3 residents*. Contractors must give first priority for new hires to Category 1 and Category 2 Residents. If the Contractor makes a good faith effort, but is unable to hire Category 1 and 2 Residents, then the Contractor shall achieve compliance by hiring, or making a good faith effort to hire, Category 3 and 4 Residents.

C. Section 3 Business Contracting:

CHA requires that Primary Contractors award, or make a good faith effort to *award, at least 10% of the total dollar amount of all subcontracts to Section 3 Businesses* for building trades work for maintenance, repair, modernization or development of public housing, or for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction.

Contractors are to give first, but may give equal, consideration to Category 1 and Category 2 Businesses. If unable to secure the services of businesses in those categories, the Contractor may endeavor to subcontract with Category 3 and Category 4 Businesses.

- Category 1 Section 3 Businesses
Business concerns that are 51% or more owned by residents of the housing development(s) for which work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.
- Category 2 Section 3 Businesses
Business concerns that are 51% or more owned by residents of other Chattanooga Housing Authority Public Housing developments other than the development(s) where the work is performed or whose full-time permanent workforce includes 30% of these persons.
- Category 3 Section 3 Businesses
Business concerns that are designated HUD YouthBuild programs being carried out in Hamilton County.
- Category 4 Section 3 Businesses
Business concerns that are 51% or more owned by a Section 3 resident(s), or whose permanent, full-time workforce includes no less than 30% Section 3 residents (category 4 businesses), or that subcontract in excess of 25% of the total amount of sub-contracts to Section 3 business concerns.

ACHIEVING COMPLIANCE IN HIRING SECTION 3 RESIDENTS

A Contractor may employ only Certified Section 3 Residents if they wish to claim credit toward the attainment of Section 3 employment targets. A clearinghouse for the certification and placement of bona fide Section 3 residents is maintained by CHA. CHA keeps a current list of certified Category 1 and 2 residents who are interested in Section 3 employment.

At a minimum, Contractors must take the following steps in an effort to meet the goals for hiring Section 3 Residents:

1. Give priority to Category 1 and 2 Residents by first obtaining a list of Certified Section 3 (Category 1 and 2) Residents from CHA Resident Employment and Training Clearinghouse.
2. Review this list of Section 3 Residents and contact those with the appropriate skills and qualifications to be interviewed.
3. Interview the Section 3 Residents and hire those that meet the qualifications for the job, and notify the Resident Employment and Training Clearinghouse of your selections.
4. Should there be an insufficient number of qualified Category 1 and 2 Residents, the Contractor may utilize other means to secure the employment of Category 3 and 4 Residents.

In the event the above steps are unsuccessful in meeting the Section 3 targets, the Contractor is urged to take one or more of the following steps to show a good faith effort:

- Advertise employment and training positions to dwelling units occupied by Category 1 and 2 residents.
- Contact resident councils and other resident organizations in the affected housing developments to request assistance in notifying residents of the training and employment positions to be filled.
- Conducting outreach in areas occupied by Category 3 and 4 Residents.
- Arrange interviews and conduct interviews on the job site or at other locations convenient to the Section 3 residents.
- Enter into “first source” hiring agreements with organizations representing Section 3 residents.
- Establish training programs, which are consistent with the requirements of the Department of Labor, specifically for Section 3 Residents in the building trades.
- Undertake such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

If the Contractor is only able to meet the Section 3 resident hiring targets through the employment of Category 3 or 4 Residents, the Contractor must present documentation of the employee's eligibility as a Section 3 Resident at submission of the first payroll report. Proof of residency in Hamilton County and current participation in a YouthBuild program, or a low- or very-low income person residing in Hamilton County must be documented. CHA shall verify the eligibility of the Category 3 or 4 Section 3 employee prior to authorizing payment of the project invoice to which the payroll report applies.

ACHIEVING COMPLIANCE IN CONTRACTING WITH SECTION 3 BUSINESSES

CHA maintains a current listing of Certified Section 3 businesses. The Construction Industry Corporation maintains a list of local Minority/Women/Disadvantaged (M/W/D) business concerns. All bidders shall be given a copy of the most current list of Section 3 business concerns and a copy of the most recent list of M/W/D business concerns.

At a minimum, Contractors must take the following steps in an effort to meet the goals for contracting with Section 3 Businesses:

1. Inform the appropriate Section 3 businesses of contracting opportunities in connection with the bid or contract, and invite them to submit bids/quotations, or to enter into contract negotiations. If the Contractor is not aware of the appropriate qualified Section 3 businesses the current list of Certified Section 3 Businesses should be obtained from CHA.
2. First provide opportunities to Category 1 and Category 2 Section 3 businesses to submit quotes, bids, or enter into negotiated subcontracts before extending such offers to Category 3 and Category 4 Section 3 businesses.

In the event the above steps do not result in meeting the targets for contracting with Section 3 businesses, the Contractor is urged to take one or more of the following steps, sufficient to meet the goals or to show a good faith effort to do so:

- Contact business assistance agencies, minority contractors associations and community organizations to inform them of the contracting opportunities and request their assistance in identifying Section 3 businesses which may submit bids for a portion of the work
- Advertise contracting opportunities by posting notices, in the common areas of the applicable development(s) owned and managed by CHA. Such notices are to provide general information about the work to be contracted and where to obtain additional information
- Provide written notice of contracting opportunities to all known Section 3 business concerns. This notice should be provided in sufficient time to allow the Section 3 business concerns to respond to bid invitations.

- Follow up with Section 3 business concerns that have expressed interest in the contracting opportunities.
- Coordinate meetings at which Section 3 business concerns could be informed of specific elements of the work for which subcontract bids are being sought.
- Where appropriate, break out contract work into economically feasible units to facilitate participation by Section 3 businesses.
- Support and undertake joint ventures with Section 3 businesses.

CERTIFICATION AS A SECTION 3 BUSINESS

The Housing Authority certifies businesses seeking recognition as Section 3 business concern. Any business concern seeking Section 3 preferences in the awarding of contracts or purchase agreements must complete the appropriate certification request forms and provide proof of eligibility for the Section 3 Certification. In order to receive a bidding preference, the certification as a Section 3 Business Concern must have been granted prior to the close of bids.

1. Contractors may pick up *certification packets* from the Section 3 Coordinator's office. Packets are also distributed at the pre-bid conferences and are included in the bid package.
2. Upon request, the Section 3 Coordinator shall provide information and assistance to interested parties in completing the forms required for certification.
3. Contractors must return all required forms and documentation for certification as a Section 3 business to the Section 3 Coordinator **not less than 5 days** before the closing date and time for the bid, if the business wishes to receive a bidding preference for that bid.
4. CHA shall review the documentation and determine whether the Contractor meets the requirements for a Section 3 Business. If it does, the Contractor shall receive a letter of Certification.
5. Contractors who are denied certification may file an appeal with the Section 3 Coordinator within 10 days of the denial.

ACKNOWLEDGMENT OF SECTION 3 REQUIREMENTS

All Contractors submitting bids/proposals to CHA shall be required to complete a Statement of Efforts to Fully Comply with Employment and Training Provisions of Section 3. Such Statement must be accompanied by adequate evidence to support representations made. Such evidence shall include completed copies of the appropriate CHA forms pertaining to the Contractor's estimates of Section 3 hiring and contracting.

SANCTIONS

Contractors who fail to achieve compliance and are unable to provide sufficient proof of a good faith effort shall be subject to the sanctions as follows:

1. ***Section 3 Resident Hiring*** - Liquidated damages equal to 10% of the pro-rata share of the contract amount that was targeted for Section 3 Resident employment but which was not utilized for Section 3 employment. Such liquidated damages shall be deducted from the retainage held pending project completion.
2. ***Section 3 Contracting*** - Liquidated damages in an amount equal to 10% of the dollar amount targeted but not awarded as subcontracts to Section 3 businesses.
3. ***Contract Award as Section 3 Business with Bid Preference*** - Forfeit of the bid preference.

Any Contractor in non-compliance shall receive a written “Notice of Non-Compliance”. CHA Board of Commissioners shall consider a Contractor’s success in providing employment and business opportunities to Authority Residents and Section 3 Businesses prior to acting on any proposed contract award.

INCOME LIMITS
FOR CHATTANOOGA, TENNESSEE-GEORGIA MSA
FY 2010

| SIZE OF HOUSEHOLD | 1 PERSON | 2 PERSONS | 3 PERSONS | 4 PERSONS | 5 PERSONS | 6 PERSONS | 7 PERSONS | 8 PERSONS |
|----------------------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| EXTREMELY LOW INCOME | 11750 | 13400 | 15100 | 16750 | 18100 | 19450 | 20800 | 22150 |
| VERY LOW-INCOME | 19600 | 22400 | 25200 | 27950 | 30200 | 32450 | 34700 | 36900 |
| LOW-INCOME | 31300 | 35800 | 40250 | 44700 | 48300 | 51900 | 55450 | 59050 |

FY 2010 MEDIAN FAMILY INCOME FOR CHATTANOOGA, TN-GA MSA: 55900

Extremely Low-Income is 30% of this, prorated by family size; Very Low-Income is 50% of this, prorated by family size; Low-Income is 80% prorated by family size.

Section 8 Leased Housing admissions limited to Very Low-Income.

Conventional Low-Rent Housing (Public Housing) limited to Low-Income.

SECTION 3 FORMS

The following forms have been developed for the purpose of administering this Section 3 program and shall be used by bidders/proposers and by CHA monitors in their efforts to comply with certification and administrative requirements of Section 3. Additional copies of any Section 3 forms referenced within this Section 3 program may be obtained by contacting the Authority's Section 3 Coordinator.

CHATTANOOGA HOUSING AUTHORITY

Certification for Business Concerns Seeking Section 3 Preference

Name of Business: _____

Address of Business: _____

Type of Section 3 Business:

- Corporation • Partnership
• Sole Proprietorship • Joint Venture

Name & Address of Section 3 Resident(s) in 51% ownership position:

ATTACHED IS THE FOLLOWING DOCUMENTATION AS EVIDENCE OF SECTION 3 STATUS (½ AS APPROPRIATE):

For business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease with Chattanooga Housing Authority
- Copy of receipt of public assistance
- Copy of evidence of participation in a public assistance program
- Other evidence as appropriate

For the business entity as applicable as applicable:

- Copy of Articles of Incorporation
- Assumed business Name Certificate
- List of owners/stockholders and % ownership of each owner
- Organizational chart w/names, titles & brief functional statement
- Certificate of Good Standings
- Partnership Agreement
- Corporation Annual Report
- Latest Board minutes appointing officers
- Additional documentation

For business claiming Section 3 status by subcontracting 25% of the dollar amount awarded to qualified Section 3 businesses

- List of subcontracted Section 3 businesses and subcontract amounts

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business

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

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- List of owned equipment
- Statement of ability to comply with public policy
- List of all contracts for the past two years

CORPORATE SEAL

Attested by: _____
Name: _____
Date: _____

Authorizing Name & Signature

For CHA Use Only:

Certified as Section 3 Business? • Yes • No

Type of Section 3 Business:

- Category 1 • Category 2 • Category 3 • Category 4

Verification Status:

- Ownership by 51% Category 1 Residents
- 30% Employees are Category 1 Residents
- YouthBuild Program
- Ownership by 51% Category 4 Residents
- 30% Employees are Category 4 Residents
- Excess of 25% of Subcontracts to Section 3 Businesses
- Ownership by 51% Category 2 Residents
- 30% Employees are Category 2 Residents

CHATTANOOGA HOUSING AUTHORITY SECTION 3 PROGRAM

*Contractor Certification of Efforts to Fully Comply With
Employment and Training Provisions of Section 3*

Name of Firm: _____
Address: _____
Name of Principle: _____

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

- Is a Section 3 Business concern.** *A Section 3 Business concern means a business concern:*
 1. That is 51% or more owned by Section 3 Resident(s); or
 2. Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within the last 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% of the dollar value of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 herein.
- **Is Not a Section 3 Business concern but has and will continue to seek compliance with Section 3 by certifying to the following efforts to be undertaken.**

EFFORTS TO AWARD SUBCONTRACT TO SECTION 3 CONCERNS:
(Check ALL that apply)

- _____ By contacting business assistance agencies, minority contractors associations and community organizations to inform them of the contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids for a portion of the work.
- _____ By 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 of the applicable development(s) owned and managed by the Housing Authority.
- _____ By providing written notice to all known Section 3 business concerns of contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to bid invitations.
- _____ By following up with Section 3 business concerns that have expressed interest in the contracting opportunities.
- _____ By coordinating meetings at which Section 3 business concerns could be informed of specific elements of the work for which subcontract bids are being sought.

_____ By conducting workshops on contracting procedures and specific contracting opportunities in a timely manner so that Section 3 business concerns can take advantage of contracting opportunities.

_____ By advising Section 3 business concerns as to where they may seek assistance to overcome barriers such as inability to obtain bonding, lines of credit, financing, or insurance, and aiding Section 3 businesses in qualifying for such bonding, financing, insurance, etc.

_____ Where appropriate, by breaking out contract work into economically feasible units to facilitate participation by Section 3 businesses.

_____ By developing and utilizing a list of eligible Section 3 business concerns.

_____ By actively supporting and undertaking joint ventures with Section 3 businesses.

EFFORTS TO PROVIDE TRAINING AND EMPLOYMENT TO SECTION 3 RESIDENTS
(Check ALL that apply)

_____ By entering into a "first source" hiring agreements with organizations representing Section 3 residents.

_____ By establishing training programs, which are consistent with the requirements of the Department of Labor, specifically for Section 3 residents in the building trades.

_____ By advertising employment and training positions to dwelling units occupied by Category 1 and 2 residents.

_____ By contacting resident councils and other resident organizations in the affected housing development to request assistance in notifying residents of the training and employment positions to be filled.

_____ By arranging interviews and conducting interviews on the job site.

_____ By undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

I hereby certify that the above statements are true and correct representations of the bidder's efforts to comply with the training and employment provisions of Section 3.

Signature: _____

Date: _____

CHATTANOOGA HOUSING AUTHORITY

SECTION 3 PROGRAM

Request for Person Seeking Section 3 Certification for Training and Employment

I, _____, am a legal resident of the City of Chattanooga or Hamilton County, Tennessee.

My household has met the income eligibility guidelines for a Low- or Very Low-Income family as published below.

My permanent address is: _____

I have attached the following documentation as evidence of my status:

- Copy of Lease
- Copy of receipt of public assistance
- • Copy of evidence of participation in a public assistance program
- • Other evidence

FAMILY INCOME LIMITS FOR HAMILTON COUNTY, TENNESSEE (Effective FY2010)
 (Date)

| 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons |
|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| \$19600 | \$22400 | \$25200 | \$27950 | \$30200 | \$32450 | \$34700 | \$36900 |
| \$31300 | \$35800 | \$40250 | \$44700 | \$48300 | \$51900 | \$55450 | \$59050 |

Top figures represent very low-income families; bottom figures represent low-income families

SIGNATURE OF RESIDENT: _____

| | |
|--|--|
| <i>For CHA Use Only:</i> | |
| Verification Status: | |
| <ul style="list-style-type: none"> • Public Housing Resident (Name of Development) _____ • Low-Income Hamilton County Resident • YouthBuild Participant | |
| Certified as Section 3 Eligible? | <ul style="list-style-type: none"> • Yes • Category 1 or 2 • Category 3 • Category 4 |
| | <ul style="list-style-type: none"> • No |

THIS PAGE INTENTIONALLY LEFT BLANK

CHATTANOOGA HOUSING AUTHORITY

INSTRUCTIONS TO OFFERORS FOR SERVICE CONTRACTS

I. PROPOSAL FORMS

- A. All proposals must be submitted on forms furnished by the Chattanooga Housing Authority (CHA). The original proposal must be signed.
- B. Proposal forms shall be sealed in an envelope which shall be clearly labeled with the words "Proposal Documents," and shows the solicitation number, name of offeror, and date and time proposals are due.

II. INTERPRETATIONS

No oral interpretation will be made to any offeror. Every request for interpretation shall be made in writing and any inquiry received seven (7) or more days prior to the date fixed for receiving proposals will be given consideration. Interpretations will be in the form of addenda, which will be on file in the office of CHA at least seven (7) days prior to the submission date. In addition, addenda will be mailed to each offeror of record, but it shall be the offeror's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the contract and all offers shall be bound by such addenda, whether or not received by the offerors.

III. NONCOLLUSION AFFIDAVIT

Each proposer submitting an offer for any portion of the work contemplated by the proposal documents shall execute an affidavit, in the form provided by CHA to the effect that it has not colluded with any other person, firm or corporation in regard to any offer submitted. Such affidavit shall be attached to the proposal.

IV. OFFEROR'S EXPERIENCE

Before an offer is considered for award, the offeror may be requested by CHA to submit a statement regarding any previous experience in performing comparable work, its business and technical organization, and financial resources.

V. TIME FOR RECEIVING OFFERS

- A. All offers received prior to the submission deadline date and time will be securely kept and unopened until such time as is determined for opening of proposals. They will not be opened publicly. No proposal received thereafter will be considered except when a proposal arrives by mail after the time fixed for submission, prior to award, and is shown to the satisfaction of the officer authorized to make the award that the tardiness was due solely to delay in the mail for which the offeror was not responsible. No responsibility will attach to CHA or its employees for the premature opening of a proposal not properly addressed and identified. Unless specifically authorized, telegraphic offers will not be considered, but modification by telegraph of proposals already submitted will be considered if received prior to the date and time for

submission and written confirmation of such modification over the signature of the offeror is placed in the mail and postmarked prior to the proposal opening.

- B. Offerors are cautioned that, while telegraphic modifications of offerors may be received as provided above, such modifications, if not explicit and if in any way subject to misinterpretation, shall make the offer so modified or amended subject to rejection.

VI. OPENING OF OFFERS

There will be no public opening of proposals. The HA will open and review all bids in detail after the submission deadline for correctness, completeness, responsiveness, and responsibility. Offers will be available for public inspection only after the award has been completed.

VII. WITHDRAWAL OF OFFERS

Offers may be withdrawn on written or telegraphic request dispatched by the offeror in time for delivery during the normal course of business prior to the submission date, provided written confirmation of any telegraphic withdrawal over the signature of the offeror is placed in the mail and postmarked prior to the time set for proposal submission.

VIII. AWARD OF CONTRACT/REJECTION OF OFFERS

- A. The contract will be awarded to the responsible offeror submitting a proposal complying with the conditions of the Request for Proposals and whose proposal is reasonable and considered to be in the best interest of CHA. The offeror to whom the award is made will be notified at the earliest practical date. CHA, however, reserves the right to reject any and all proposals whenever such rejection or waiver is in the best interest of CHA.
- B. CHA is prohibited from making any awards to contractors or accepting as subcontractors any individuals or firms which are on a list of contractors ineligible to receive awards from the United States, as furnished from time to time by the U.S. Department of Housing and Urban Development.
- C. CHA also reserves the right to reject a proposal of any offeror who has previously failed to perform properly or to complete on time contracts of a similar nature, who is not in a position to perform the contract, or who has habitually and without just cause neglected the payment of bills and otherwise disregarded its obligations to subcontractors, materialman, employees, and creditors.

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

SAMPLE CONTRACT
CONTRACT NO. 11H-347-00
between
CHATTANOOGA HOUSING AUTHORITY
and

(Federal ID # _____)

RETIREMENT PLAN PROVIDER AND/OR ADMINISTRATOR

TERM: Two Years
(With Possible Three-Year Extension)

THIS AGREEMENT is made and entered into this ___ day of _____, 2011, by and between the **Chattanooga Housing Authority** (hereinafter referred to as the "HA") and _____, of the City of _____, County of _____, State of _____ (hereinafter referred to as "Contractor"), and consists of the following documents and all attachments thereto, which are hereby incorporated by reference. If there is any conflict between the documents, the following order of precedence shall govern:

- A. The contents herein as may be amended.
- B. Contractor's proposal dated _____.
- C. HA's Request for Proposals (RFP) dated August 5, 2011 and addenda.

W I T N E S S E T H:

WHEREAS, the HA and Contractor desire to enter into a contract for a Retirement Plan Provider and/or Administrator for the HA's employee retirement benefit savings plan,

NOW, THEREFORE, the HA and Contractor mutually agree as follows:

1. Scope of Services

Contractor will provide all services as agreed upon in accordance with the scope of work/technical specifications contained in RFP #H-347-00 for a Retirement Plan Provider and/or Administrator and with the Contractor's proposal, both of which are herein enclosed and made a part of this agreement.

2. Term of Contract

The Plan Year for services under this Agreement shall commence on or about _____, 2011. The contract period shall be for a two (2) years with an option for one (1) three-year extension.

3. Compensation

The HA will pay Contractor for all said services at the rates provided in the Employer's Fixed Fee Schedule within this contract for a **TOTAL ESTIMATED PRICE NOT TO EXCEED** _____ **DOLLARS**

(\$_____). The HA shall guarantee no minimum or maximum amount of purchase during the lifetime of the contract. The HA will pay Contractor only for those services actually performed.

4. Invoices/Statements for Services

Contractor shall submit to the HA an invoice with an itemized statement of services provided by Contractor as they are completed.

5. Terms of Payment

Terms are Net 30 Days. Payment, less such discounts or deductions as are provided for in the agreement or by law, will be made by check or, if a participation agreement between the HA and the Contractor has been established, by electronic fund transfer. Checks will be mailed not more than 30 calendar days after the later of (i) receipt of a proper invoice by the HA office designated in the agreement for receipt of invoices or (ii) acceptance by the HA of the work, material, or equipment required by the agreement at the HA location specified in the agreement. A separate invoice must be submitted for each payment.

Neither payment nor acceptance by the HA for the limited purpose described in this clause shall constitute a waiver of any rights under the agreement or at law, including rights under any Special Conditions.

For purposes of this provision only, the following definitions shall apply:

A. "Proper invoice" means a numbered and dated invoice or Periodic Estimate for Payment, containing the HA agreement, purchase order, and/or release number and line items as listed, together with required documentation.

B. "Acceptance" means receipt by the HA of the work, material, or equipment meeting the agreement requirements and acknowledgment by an authorized representative of the HA that such agreement specifications have been met, unless a later acceptance period is specifically provided for elsewhere in the agreement; provided, however, such acceptance may be revoked at any time by the HA upon the discovery of a latent defect in design, material, or workmanship or a latent nonconformity of the work, material, or equipment to the agreement requirements.

6. Employment of Other Contractor

Contractor will not employ or otherwise incur an obligation to pay any other Contractor or Subcontractor for services in connection with this Contract without prior approval of the HA.

7. Termination of Contract

This Contract and all services to be rendered hereunder may be terminated by HA at any time with or without cause, by giving the Contractor ninety (90) days written notice of such termination. In such event, all finished and unfinished documents, project data, reports and work papers shall, at the option of the HA, become its property and shall be delivered to it or to any party it may designate. In the event such termination is made for cause, compensation, if any, shall be adjusted in the light of the particular facts and circumstances involved in such termination. "Cause" is defined as the willful or grossly negligent failure of

either party to comply substantially with the terms of this Contract. In the event of termination other than for cause, the HA shall pay Contractor for all services performed and expenses incurred until such termination becomes effective and any subsequent services performed or expenses incurred if such subsequent services or expenses are requested by HA.

8. Interest of Members of HA

No member of the governing body of the HA and no other officer, employee, or agent of the HA who exercises any functions or responsibilities in connection with the carrying out of the project to which the litigation pertains shall have any personal interest, direct or indirect, in this Agreement.

9. Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall be entitled to any share or part of this Agreement or to any benefit to arise therefrom.

10. Equal Employment Opportunity

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

A. Contractor will not discriminate against any employee or applicant for employment because of race, religion, sex, color, or national origin. 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 action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the HA setting forth the provisions of this nondiscrimination clause.

B. Contractor will, in all solicitations or advertisements for employees 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.

11. Insurance Requirements

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 Contract period, the Contractor shall not permit the coverage to lapse and shall furnish evidence of coverage to the HA. The maintenance of such insurance will not in any manner affect Contractor's obligation to indemnify the HA as provided in provision 13 below, but maintenance of such approved insurance shall be a condition precedent to the payment to Contractor of the compensation for the work and services provided for herein. 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 **thirty (30) days** prior written notice has been given to the HA; **must list Chattanooga Housing Authority as the Certificate Holder and as "Additional Insured;" list the sites/work; and be original copies.** Before commencing work, the Contractor shall furnish HA with Certificate(s) of insurance showing the following insurance is in force and will insure all operations under the Contract:

A. Workers Compensation, in accordance with the laws of the State of Tennessee.

B. Commercial General Liability (naming the HA as an Additional Insured, along with the applicable endorsement) with a combined single limit for bodily injury and property damage of not less than **\$1,000,000.00** per occurrence.

C. An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000), with a deductible of not greater than \$1,000.

D. Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in conjunction therewith for a combined single limit for bodily injury and property damage of not less than **\$500,000.00** per occurrence. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical payment of \$5,000.

12. Indemnification Clause

Contractor agrees to indemnify, hold harmless, and defend the Chattanooga Housing Authority, their Commissioners, employees, officers and agents, from and against all liabilities, claims penalties, forfeitures, suits and the cost and expenses incident thereto (including but not limited to the cost of defense, settlement, judgment, and reasonable attorney fees), which the Chattanooga Housing Authority may hereafter incur, become responsible for, or pay out as a result of death or bodily injury or property damage to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders for work done pursuant to the terms of this agreement, except liability for personal injury, property damage and/or loss of life or property caused by the sole negligence of the Chattanooga Housing Authority. Nothing contained herein shall waive any privileges or immunities set forth under the Tennessee Governmental Tort Liability Act.

IN WITNESS WHEREOF, the HA and Contractor have caused this Agreement to be executed by their duly authorized representatives this _____ day of _____, 2011.

CHATTANOOGA HOUSING AUTHORITY

ATTEST

BY: _____
Elizabeth F. McCright
Contracting Officer

WITNESS

CONTRACTOR
(License # _____)

BY: _____
Officer
Title

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2010)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

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

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

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

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

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

22. Procurement of Recovered Materials

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

MINORITY AND WOMEN'S BUSINESS OR INDIAN ENTERPRISE OPPORTUNITY

a. MBE Goal

Under Executive Orders 11625 and 12432, the PHA, as part of its affirmative action program, shall provide every feasible opportunity for minority business enterprises (MBEs) to participate in bidding for Modernization work. The PHA shall establish, through Board resolution, the goal of at least 20 percent of its approved federal grant funds to be awarded to contracts with MBE construction contractors, A/E's, or consultants (for both physical and management improvements), or to be purchased from MBEs under the HUD Consolidated Supply Program. The 20 percent goal is not a mandatory set-aside. Where the main construction contract is awarded to an MBE, the PHA shall count the entire dollar amount of the contract toward the MBE goal. Where the main construction contract is not awarded to an MBE, the PHA shall count the dollar value of such subcontract(s) toward the MBE goal. The PHA shall not double count the dollar value of the main construction contract and any of its subcontracts. The PHA shall report its MBE progress on Form HUD-2516, Contract and Subcontract Activity Report for Public and Indian Housing Programs.

b. Definitions

- (1) MBE means a business that is owned or controlled by one or more socially or economically disadvantaged persons. Such persons include Blacks, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, Aleuts, Hasidic Jews, Asian Pacific American, and Asian Indians.
- (2) Owned or controlled by one or more socially and economically disadvantaged person(s) means that a socially and economically disadvantaged person(s), or a for-profit business or nonprofit organization controlled by such person(s), possess at least 51 percent of the ownership of the business, and its management and daily business operations are controlled by such persons.

c. Bid or Solicitation Process

To ensure that MBEs are aware of Modernization bid opportunities, the PHA may wish to adopt the following suggested techniques, in addition to its existing procedures, for publicizing upcoming Invitations for Bid or Requests for Proposals (see Chapter 9):

- (1) Timely advertisement in media with a largely minority audience;
- (2) Solicitation of bids or requests for proposals directly from MBEs;
- (3) Posting of signs around the project and in the PHA management office and local stores;

(4) Notification of community organizations, public or private institutions and trade associations; and

(5) Notification of the tenant organization if any.

d. Women's Business Enterprises

Under Executive Order 12138, both PHAs and IHAs shall take appropriate affirmative action to assist women's business enterprises and shall maintain information and reports.

e. Indian Enterprises

In accordance with the Indian Determination and Education Assistance Act and the Indian Housing Regulation (24 CFR Part 905), IHAs shall, to the greatest extent feasible, give preference in the award of Modernization contracts during any FFY to Indian organizations and Indian-owned economic enterprises, as defined in 24 CFR 905.106 (a).

ENVIRONMENT

Before approving federal grant funds, HUD will comply with all applicable requirements of 24 CFR Part 50, implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), and related requirements of 24 CFR 50.4, pertaining to overlaying environmental laws, Executive Orders and HUD standards. The Field Office shall document compliance with these requirements on Forms HUD-4128 and 4128.1, as appropriate (see paragraph 3-22).

(Per 24 C000FR 50.4)

CIVIL RIGHTS COMPLIANCE

A. The PHA shall comply with:

(1) In the case of Indian Housing Authorities (IHAs):

- (a) Title II of the Civil Rights Act of 1968 (Indian Civil Rights Act) (25 U.S.C. 1301-1303) or Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) and Title VIII of the Civil Rights Act of 1968, as amended, (42 U.S.C. 3601-3619), as applicable. The Indian Civil Rights Act is applicable (Title VI and Title VIII are inapplicable) to IHAs established by exercise of a tribe's powers of self-government. In the case of an IHA established under State law, the applicability of the Indian Civil Rights Act (or of Title VI and Title VIII) will be determined by HUD on a case-by-case basis in accordance with 24 CFR 905.105;
- (b) Where Title VI and VIII are applicable, Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), 24 CFR Part 146, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), 24 CFR Part 8.
- (c) Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); and
- (d) Executive Order 11246 (30 FR 12319) 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.

(2) In the case of all other PHAs:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000-2000d-4), 24 CFR Part 1; Fair Housing Act (42 U.S.C. 3601-36), 24 CFR Part 100; Executive Orders 11063 (Equal Opportunity in Housing), 11246 (Equal Employment Opportunity), and 12138 (Women's Business Enterprise); Section 3 of the HUD Act of 1968, as amended, (12 U.S.C. 1701u), 24 CFR Part 135; Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), 24 CFR Part 146; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), 24 CFR Part 8.
- (b) Except for modernization work of an emergency nature, affecting the life, health, and safety of tenants, HUD will not approve a modernization program if:
 - (1) There is a pending civil rights suit against the PHA instituted by the Department of Justice;

CIVIL RIGHTS COMPLIANCE

Page 2

- (2) There are outstanding HUD findings of PHA noncompliance with civil rights statutes, executive orders, or regulations as a result of formal administrative proceedings, unless the PHA is implementing a HUD-approved tenant selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance; or
 - (3) There has been a deferral of the processing of applications from the PHA imposed by HUD under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 1.8) and procedures (HUD Handbook 8040.1).
- (c) Section 3 of HUD Act of 1968. Under Section 3 of the HUD Act of 1968, as amended, the PHA shall require that, to the greatest extent feasible, opportunities for training and employment be given to lower income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located; and that contracts for work be awarded to business concerns which are located in or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project, provided that the contract award complies with State and local law and Federal requirements. (Refer to 24 CFR Part 135).

TABLE 5.1 of HUD Procurement Handbook 7460.8 REV 2
MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES OTHER THAN CONSTRUCTION

The following contract clauses are required in contracts pursuant to 24 CFR 85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor are also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

Examination and Retention of Contractor's Records. The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by Contractor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

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

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.

Termination for Cause and for Convenience (contracts of \$10,000 or more).

(a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The PHA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.

(b) If the termination is for the convenience of the PHA, the PHA shall be liable only for payment for services rendered before the effective date of the termination.

(c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (cause/default), the PHA may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract of otherwise, and the Contractor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Contractor. In the event of termination for cause/default, the PHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

THIS PAGE INTENTIONALLY LEFT BLANK

CORPORATE CERTIFICATE

I, _____, certify that I am the _____ of the corporation named as Contractor in the foregoing proposal; that _____ who signed this proposal on behalf of the Contractor was then _____ of said corporation; that said proposal was duly signed for and on behalf of said corporation by authority of its Board of Directors; and is within the scope of its corporate powers; and that said corporation is organized under the laws of the State of _____.

This _____ day of _____, _____.

Signature

(Seal)

PARTNERSHIP CERTIFICATE

STATE OF _____

COUNTY OF _____

On this _____ day of _____, _____, before me personally appeared _____ known to me to be the person who executed the above instrument, and who, being duly sworn, did depose and say that _____ is a _____ in the firm of _____ and that said firm consists of Affiant and _____, and that Affiant executed the foregoing instrument on behalf of said firm for the uses and purposes stated therein, and that no one except the above-named members of the firm have any financial interest whatsoever in said proposed contract.

(Affiant)

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

Notary Public

My Commission Expires:

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

_____ (CONTRACTOR) is an equal opportunity employer and, during the performance of this contract, the CONTRACTOR agrees to abide by the equal opportunity goals of the CHATTANOOGA HOUSING AUTHORITY as follows:

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap. 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, national origin, or handicap. Such action shall include, but not be limited to, the following: employment, upgrade, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CHATTANOOGA HOUSING AUTHORITY 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 advising the said labor union or workers' representatives of the CONTRACTOR'S commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The CONTRACTOR will comply with all provisions of Executive Order 11246 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 11246 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 Department of Housing and Urban Development (HUD) 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 nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, 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 11246 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The CONTRACTOR will include this entire document 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 11246, so that each provision will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as HUD may direct as a means of enforcing 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 HUD, the CONTRACTOR may request the United States to enter into such litigation to protect the interest of the United States.

Under the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, the CHATTANOOGA HOUSING AUTHORITY shall require that, to the greatest extent feasible, opportunities for training and employment be given to lower income persons residing within the unit of local government.

Under Executive Order 11246, as amended, the CHATTANOOGA HOUSING AUTHORITY shall advise all construction-related contracts over \$500,000 to document affirmative actions taken to ensure equal opportunity in employment. As part of its normal contract administration, the CHATTANOOGA HOUSING AUTHORITY is responsible for determining compliance with the EEO clause.

(Signature/Title)

(Company)

(Date)

AFFIRMATIVE ACTION PLAN

for

_____, hereinafter called "**CONTRACTOR**," is an equal opportunity employer and during the performance of this contract, the **CONTRACTOR** agrees to abide by the following Affirmative Action Plan:

1. **CONTRACTOR** shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap. 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, national origin, or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. **CONTRACTOR** shall in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. **CONTRACTOR** shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the **CONTRACTOR'S** commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. It is the goal of **CONTRACTOR** to have a workforce with a minimum of _____ percent minority and _____ percent female employees.
5. This Plan or any attachments thereto shall further provide a list of all employees annotated by job function, race and sex who are expected to be utilized on this project.

6. During the term of this contract, the following nondiscriminatory hiring practices shall be employed to provide employment opportunities for minorities and women:
 - a. All help-wanted ads placed in newspapers or other publications shall contain the phrase "Equal Opportunity Employer."
 - b. Maintain systematic contacts with minority groups and human relations organization.
 - c. Encourage present employees to refer qualified minority group and female applicants for employment opportunities.
 - d. Use only recruitment sources which state in writing that they practice equal opportunity. Advise all recruitment sources that qualified minority group members and women will be sought for consideration for all positions when vacancies occur.

7. During the term of this contract, **CONTRACTOR**, upon request of the Chattanooga Housing Authority, will make available for inspection by the Chattanooga Housing Authority copies of payroll records, personnel records, and other records and/or documents that may be used to verify **CONTRACTOR'S** compliance with these equal opportunity provisions.

8. **CONTRACTOR** agrees to notify the Chattanooga Housing Authority of any failure or refusal on the part of the **CONTRACTOR** or any Subcontractors to comply with the equal opportunity provisions as set forth. Any failure or refusal to comply with the aforementioned provisions by the **CONTRACTOR** and/or Subcontractors shall be a breach of this contract.

(CONTRACTOR)

BY: _____
(Authorized Official)

TITLE: _____

DATE: _____

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here if there are workplaces on file that are not identified on the attached sheets.

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

X

Certification of Payments to Influence Federal Transactions

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

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 subrecipients 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) |