

REQUEST FOR PROPOSAL

for

***Management and Operation of Memphis Housing Authority's
Housing Choice Voucher Programs (HCVP)***

Solicitation No: HC 24-R-00691



***Memphis Housing Authority
700 Adams Avenue
Memphis, TN 38105***

***An Equal Opportunity Employer
An Equal Housing Provider***

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Memphis Housing Authority
Executive Summary Notice

REQUEST FOR PROPOSAL (RFP)

Solicitation No: HC 24-R-00691

1. The Memphis Housing Authority (MHA) is acquiring through the Contracts & Purchasing Department, the services of a qualified firm to manage and operate its Housing Choice Voucher Programs.
2. The MHA will award a firm-fixed price contract. Offers in response to this solicitation will be evaluated using MHA's technical proposal evaluation process. Offers must be submitted in accordance with the instructions provided in the RFP. Failure to furnish a complete offer at the time and date due shall result in elimination from award consideration.
3. Formal communication such as requests for clarification and/or information concerning this solicitation shall be submitted in writing to the Manager of Contracts and Purchasing. All requests should be received in the Contracting Office no later than March 20, 2024 by 3:00 pm. David Walker, dwalker@memphisha.org.
4. The MHA reserves the right to reject any or all offers. No offer shall be withdrawn for a period of one hundred twenty (120) days subsequent to the opening of proposals without the consent of the MHA.
5. Please be advised that award without discussion may be completed if the quality of the initial proposals received is such that no purpose would be served by conducting negotiations.
6. Memphis Housing Authority has a goal of 30% women/minority business participation. The MHA solicits and encourages the participation of minorities and small business in all procurements.

Thank you for your interest in this project. We look forward to receiving your proposal.

David Walker
Contracting Officer

SECTION A

REQUEST FOR PROPOSAL MANAGEMENT AND OPERATION OF MEMPHIS HOUSING AUTHORITY'S HCV PROGRAMS

TO: Prospective Offerors

SUBJECT: Request for Proposals (RFP) to manage and operate Memphis Housing Authority's HCV Programs

RFP ISSUE DATE: March 6, 2024

DUE DATE: April 11, 2024, no later than 3:00 p.m. Central time

Sealed proposals must be received at the following address:

**Contracting Office
Memphis Housing Authority
700 Adams Avenue, Room
Memphis, TN 38105-5029**

Until 3:00 P.M., April 11, 2024

Proposals will be held in confidence and not released in any manner until after contract award.

By submission of a proposal, the Offeror agrees, if its proposal is accepted, to enter into a contract with the Memphis Housing Authority (MHA) in a form approved by both parties and to complete all work as specified or indicated in the contract documents for the contract price and within the contract time indicated in the attached RFP. The Offeror further accepts all of the terms and conditions of the RFP.

A pre-proposal conference will not be held. All questions pertaining to this request must be submitted in writing before the question deadline, March 20, 2024 by 3:00 pm. Submit questions to David Walker, Manager of Contracting, at dwalker@memphisha.org or fax 901-544-1299. A response to all questions will be posted on the MHA website, memphisha.org, after the question deadline. Please check the website for updates prior to submitting a proposal.

Proposals shall be prepared in accordance with the attached instructions and shall be evaluated by the MHA as stated in the evaluation factors for award of the RFP.

Please note, all Offerors shall submit one (1) original and five (5) copies of their proposals. Also, the fee proposal shall be labeled and placed in a single, separate envelope to

accompany the original proposal. The Contracting Department will evaluate and score the fee.

An electronic copy of the solicitation may be submitted in lieu of hard copies and will be excepted by email as received as dated. Email your response to dwalker@memphisha.org via Dropbox, MS Office 365 Outlook or a downloadable secured linked file share.

Questions regarding the attached RFP shall be submitted in writing and received no later than 3:00 P.M., March 20, 2024 in the Contracting Office via U.S. mail, faxed or emailed to (901) 544-1299, dwalker@memphisha.org.

Anticipated Timeline of Events:

Event	Date	Time (Central)
Request for Proposals (RFP) issued	March 6, 2024	Public Notice
Deadline for submitting written questions	March 20, 2024	3:00 pm
Response to all questions (posted to website), addendum issued, etc. (memphisha.org)	March 25, 2024	
Proposal due date (late proposals will not be evaluated)	April 11, 2024	3:00 pm
Evaluation period (committee meetings, clarifications, discussions & negotiations)	April 12 – April 30, 2024	
Recommendation for award (selected contractor only)	May 7, 2024	
MHA Board selection review and approval	May 23, 2024	
Award Notice mailed to competing firms	May 24, 2024	
Contract Signing	June 3, 2024	
Transition period	TBD	
Start Date	07/01/2024	

*The Contracting Department will make every effort to adhere to the above timeline; however, due to unanticipated changes to the scope or any requirements are subject to extensions and will be communicated via the Memphis Housing Authority’s website www.memphisha.org. Please check the website prior to submitting your proposal for amendments or updates that reference to this RFP.

SECTION B

GENERAL INFORMATION

SOLICITATION NUMBER: HC 24-R-00691

- Issue Date:** March 6, 2024
- Issuer:** Memphis Housing Authority
- Purpose:** The Memphis Housing Authority is seeking proposals from qualified firms to manage and operate its Housing Choice Voucher Programs.
- Proposal Deadline:** Proposals are due by 3:00 p.m. on April 11, 2024.
- Award Date:** It is expected that a qualified firm may be selected within thirty (30) days of receipt of the proposals. However, selection may be made before or after this date.
- Basis for Award:** In evaluating the responses, the Memphis Housing Authority will pay close attention to the firm's:
- 1) Successful experience, present or past, in providing similar services to similar size Public Housing or similar entities.
 - 2) Ability to perform the work as evidenced by the quality of firm references and the technical and professional credentials and experience of the project team members.
 - 3) Approach and Methodology to delivering the scope of services required.
 - 4) Evidence of other PHA High Performer SEMAP scores.
 - 5) Fee Proposal.

SECTION C

STATEMENT OF WORK

I. Introduction

The Memphis Housing Authority (MHA) was authorized by the U. S. Department of Housing and Urban Development (HUD) in 1977 to operate a Housing Choice Voucher Program. Approximately 8,999 certificates/vouchers are currently administered through the following programs. Current voucher utilization is 99.4%:

Housing Choice Voucher Program	7,666 units
Veterans Assistance Supportive Housing	492 units
Mainstream for Persons with Disabilities	258 units
RAD	296units
Foster Youth Independence	25 units
EHV	190 units
FUP	72 units

II. Terms and Scope of Services

1. Terms of Contract

One firm will be awarded a contract. The contract shall be in effect from the start date for one (1) year. MHA may elect to extend the terms of this contract up to four additional (1) year periods by giving written notice to the contractor 90 days before the expiration date of the contract.

2. Services

The Contractor shall administer the above Housing Choice Voucher Programs of MHA in accordance with (1) the specific requirements of this contract, and (2) current and future requirements of Federal statute, program regulations, directives, and guidance applicable to the HCV programs. The latter requirements are not stated in their entirety in this work statement. Rather, the work statement identifies core functions the Contractor shall administer in accordance with its approved work plan and the identified special programs. The Contractor's accomplishment of these objectives shall be measured by the stated performance standards. The contractor shall cure program deficiencies and take all necessary and appropriate actions to meet specific and ongoing requirements and achieve stated performance standards.

3. Transition Plan

The Contractor must provide MHA with a detailed transition plan to assume all operations of the department. Transition plan should include timeframes

for hiring necessary staff, employee orientation, and an expected date for assuming complete control of the operations.

III. Preparatory Activities

1. Post-Award Conference

Within ten (10) working days of the effective date of the contract, the Contractor shall attend an orientation and planning session in Memphis at the time and place designated by the Contracting Department.

2. Work Plan

Within ten (10) days of the post-award conference, the Contractor shall submit the project management system work plan specified under Contract Administration.

3. Hiring and training of staff needed to operate the program.

The current Contractor, Quadel of Tennessee, has approximately 45 budgeted positions or staff employed within the department. These employees, if allowed by the current contractor, may interview for opportunities if a new contractor is selected. If not, the new contractor is expected to hire staff and provide all necessary training. There is no union for existing staff.

4. Gathering information from current files and MHA staff needed for the ongoing operation of the program.

Information will be provided and reviewed with the selected contractor after a contract is signed. The contractor will review current tenant and vendor files and interview appropriate MHA employees to establish new procedures regarding record-keeping and operate a smooth transition while maintaining program operations for currently assisted families.

5. Writing a new Administrative Plan for the Housing Choice Voucher Programs.

MHA has a current Administrative Plan. The Contractor shall revise and update the current Administrative Plan as needed, considering changes in Federal policy regulations and the performance standards and measures established under this contract.

6. Setting up a program to achieve a broader range of housing opportunities for families assisted by the tenant-based HCV programs, including housing in neighborhoods with low concentrations of poverty.

This includes outreach to owners of rental housing to inform them about the advantages of participating in the program, in particular, and of improvements to

program operations being implemented under the contract. The selected contractor will conduct landlord orientations, letters, housing notices, radio, newspaper publications, housing fairs and website updates.

It also includes counseling families on housing opportunities in a broad range of neighborhoods and providing families with assistance in searching for housing and persuading owners to participate in the program.

7. Management Information System— Yardi Voyager

MHA currently uses Yardi Voyager software for management of the HCV program. Contractor must have working knowledge of all HCV modules installed by MHA.

Current system for rent reasonableness is accessed from Socialserve.com. The contractor is not required to use it; however, the contractor is responsible for the cost associated with the use of Socialserve.com or any other alternative.

IV. Functional Areas

The operation of the HCV programs requires the performance of certain core functions in conformance with programs regulations, guidance and directives contained in program Handbooks, Notices, and other policy documents. The following is a list of functional areas with a non-exhaustive listing of work to be performed in each area. Performance standards for these functional areas are given below under Section VI. B & C.

A. Occupancy Functions

Solicitation of applications, maintenance of the waiting list, and selection of families for participation. Initial and periodic verification of income and family composition, and calculation of tenant rent and HAP payments.

B. HQS Inspections

Provide inspection of housing units as-needed to ensure safe, quality homes for tenants and potential tenants on the HCVP. Responsible for scheduling and completion of all inspections.

C. Unit Functions

Evaluation of requested rents in comparison with unassisted rents in the market area. Periodic review and revision of allowances for tenant-paid utilities.

D. Owner Outreach and Housing Opportunity Counseling

Activities performed by the Contractor to expand the participant's range of locational choices and reduce the concentration of assisted families in areas with high concentrations of low-income households.

E. Family Self-Sufficiency (FSS) Target program size 150

The contractor will be responsible for operating the FSS program. Approximately 45 current HCV tenants are enrolled. MHA will seek grants to fund the program cost as available by HUD. If not, the contractor is expected to budget the FSS program, management/administration and reporting cost into the HCV Department. The contractor will be expected to encourage participation by all HCV residents and should be able to provide documentation to the Authority to support such encouragement. MHA has an existing FSS plan, but no active committee at this time.

F. Financial Management

Contractor is responsible for the following: financial analysis, check runs for landlord and vendor payments, monitoring and reporting of HCV programs; accurate and timely rental and utility payments; preparation and distribution of HCV 1099 statements; preparation of annual Financial Data Submission (FDS); assistance with preparation of voucher programs year end audit; and as it relates to HCV, general ledger maintenance; preparation of annual budgets, funding requisitions and other HUD submissions, including VMS reporting.

G. Customer Service

The contractor is responsible for establishing and implementing an effective customer service strategy. The customer service plan will ensure that HCV resident participants and landlords are able to connect either in person or via phone or email with HCV staff within 24 hours of making an initial attempt. The customer service plan will include procedures for effectively servicing walk-in clients. The customer service plan will include a system to measure customer satisfaction and a procedure, including a timeline, to address areas of low customer satisfaction.

V. Special Programs

In addition to the above core functions, the contractor shall administer the following special programs:

A. Tenant Based Rental Assistance Program

The purpose of this program is to use existing infrastructure for the Housing Choice Voucher program to administer TBRA programs – reduce duplication of efforts. Combine supportive services with housing assistance to address needs of special needs populations.

B. Mainstream for Persons with Disabilities

The purpose of this program is to increase the supply of housing opportunities available to very low-income persons with disabilities by providing them with rental vouchers or certificates to access the private rental market. Key Goal – Access to mainstream rental housing.

C. SHAPE

The purpose of this program is to allow eligible families to transform rental assistance into mortgage assistance. It also provides an incentive for families to work and increase earnings. The Memphis Housing Authority also offers a homeownership program known as SHAPE. Contractor must demonstrate knowledge and ability to successfully continue to administer and grow the homeownership program. Currently 30 participates are on the program. New goals will be set soon.

D. Applications for Additional Funds

During the contract period, it is likely that HUD will publish Notices of Funding Availability (NOFA's) for new increments of Certificate, Voucher, Moderate Rehabilitation SRO, Disaster, or other HCV program funds. The Contractor shall prepare recommendations for applications on behalf of MHA to HUD for such additional funding or similar program funds.

E. Project Based Vouchers (PBV)

The MHA has approx. 700 Project Based Vouchers under HAP contracts and approximately 600 more under AHAP contracts. The authority will make available PBV in other designated areas throughout the City of Memphis and Shelby County.

F. VASH Program

The HUD-Veterans Affairs Supportive Housing (HUD-VASH) program combines Housing Choice Voucher (HCV) rental assistance for homeless Veterans with case management and clinical services provided by the Department of Veterans Affairs (VA). VA provides these services for participating Veterans at VA medical centers (VAMCs) and community-based outreach clinics.

G. Family Unification Program (FUP)

The purpose of the Family Unification Program is to promote family unification by providing Housing Choice Vouchers (HCVs) to families for whom the lack of adequate housing is the primary factor in separation, or the threat of imminent separation, of children from their families and to youths 18 to 21 years old who left foster care at age 16 or older and lack adequate housing.

VI. Performance Standards

A. Ongoing Program Operation

The Contractor shall ensure that:

1. At least 98% of all budgeted Vouchers and Moderate Rehabilitation units under ACC are leased (unless otherwise approved by HUD). ABA or 98% of units is acceptable as goals.
2. 98% of re-examinations are completed not more than 12 months after last re-examination. Reexamination shall include determination of eligibility for continuing assistance, recalculation of tenant payments, approval (or termination) of assisted units, and review of owner request for rent increase. Notice of any change in tenant rent shall be given in writing 30 days in advance of effective date of change.
3. The electronic transfer of HUD form 50058 for each re-examined family on a monthly basis as required.
4. 98% of HAP payments are paid by the 5th day of each month. 98% of new owners are paid within 30 days of HAP contract execution.
5. Family Self-Sufficiency enrollment is maintained at 45 participants.
6. Voucher Payment Standard is reviewed annually and revised if the Contractor determines that more than 10% of voucher recipients are paying more than 40% of income for rent. The revision is posted at least thirty (30) days prior to initiation and must be approved by the Board of Commissioners.
7. Voucher Management System (VMS) is updated monthly as required.

B. Quality Control

The Contractor will be required to implement a system for quality control. Units newly leased up or recertified during all performance periods of the contract must meet the following standards:

1. 99% of families selected for participation are selected in accordance with Federal/local preference system, as established in the revised Administrative Plan.
2. Income verification is complete for 98% of certified/recertified families.
3. No more than 5% errors in calculation of tenant contribution.
4. Documentation of rent reasonableness is in file for all units under HAP contract.
5. Demonstrate 98% passing rate from QC inspections of a unit with a failed and passed inspection results.
6. Contractor is expected to perform due diligence on all files to ensure proper records are maintained. There are approximately 3,400 active vendor records.

All new landlords must complete a vendor form and provide documents to be approved and included on the MHA vendor list.

7. Implementation of a quality control tracking system that records issues, accountability, timelines and outcomes

C. Financial Management

1. Endeavor to maintain staff that have thorough knowledge of financial management for the voucher programs.
2. Ensure staff responsible for finance and accounting receive HCV Financial Management and Reporting training and keep up-to-date on HUD accounting notices.
3. Maintain accuracy of general ledger by reconciling activity and making adjustments as needed. Contractor's responsibility is limited to its own entries.
4. Maintain source documentation and files that support the financial transactions recorded in the general ledger, providing an audit trail.
5. Monitor available Budget Authority as allocated from HUD, for current and planned utilization.
6. Prepare a monthly report by program of leasing and funds analysis.
7. Prepare and update leasing projections and costs throughout the year.
8. Document annual contributions received and disbursed.
9. Maintain records for audit purposes, compliance and HUD reviews, etc.
10. Prepare and monitor the HCV budget as it pertains to the Contractor's operation of the HCV program. Contractor is not responsible for preparing and maintaining MHA'S budget for central office or direct HCV program expenses.
11. Complete and ensure accuracy of all HUD reporting relating to the HCV program.
12. Prepare monthly HAP and UAP payments to landlords and tenants.
13. Prepare and distribute annual 1099's statements to vendors.
14. Respond to any IRS penalties in relation to 1099 records.

VII. Performance Based Disincentives

Each Administration Component will be subject to one (1) or more performance standards. The Selected Respondent(s) is expected to consistently perform at no less than the minimum performance requirements listed below. While all minimum performance requirements are important, disincentives may be applied for performance of the Administration Component. Each performance standard will be measured by MHA on a quarterly basis. The Selected respondent(s) shall ensure that all documents required by HUD, MHA's Administrative Plan, or a formal MHA Advisory are properly indexed in the file at the time of the MHA review. MHA reviews maybe assisted by audits, compliance reviews, or external consultants as-needed. The contractor must address and correct any deficiencies when a disincentive is applied. Failure to make corrections may endanger the completion of the contract due to poor performance (see next pages).

Performance Indicator	Review	Frequency	Min Performance Requirement	Disincentive Performance 1% -5% applied
1. Quality Control of Participant Files	QC of HUD- 50058 Form and supporting documentation	Quarterly	80 %-89% Pass Rate	Below 80%
		<i>Disincentive Payment</i>	None	<i>3 % of total monthly cost of Admin Component</i>
2. Quality Control of Owner Files	QC of Owner Files and supporting documentation. Eligibility and ongoing enforcement process	Quarterly	95-97% Pass Rate	Below 95%
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>
3. Selection from HCV Wait List	QC of HUD-50058	Quarterly	98% Pass Rate	Below 98%
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>
4. Quality Control of HQS		Quarterly	85-94% Pass Rate	Below 85%
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>

Performance Indicator	Review	Frequency	Min Performance Requirement	Disincentive Performance 1% -5% applied
5. HQS Enforcement	QC inspections of a unit with a failed and passed inspection result	Quarterly	98% Pass Rate	Below 98 %
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>
6. HAP Files	QC of HAP process(including rent affordability test)	Quarterly	98% Pass Rate	Below 98%
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>
7. Check Run	QC of check run process (including HAP issuance and collection efforts)	Quarterly	85-90% Pass Tate	Below 85
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>
8. Portability	QC of HUD-50058 &52665 Forms and Supporting documentation: Portability process (including timely and accurate HAP issuance)	Quarterly	80-89% Pass Rate	Below 80%
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>
9. Case Follow-up and resolutions	Timely and accurately follow-up resolutions of assigned cases	Quarterly	90-95% Pass Rate	Below 90%
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>

Performance Indicator	Review	Frequency	Min Performance Requirement	Disincentive Performance 1% -5% applied
10. SEMAP High Performer	QC review of HUD SEMAP requirements	Annual	Standard performer	Troubled Performer Status
		<i>Disincentive Payment</i>	None	TBD
11. Customer Service Survey		Annual at the beginning of the second year of contract	TBD	TBD
		<i>Disincentive Payment</i>	None	<i>3% of total monthly cost of Admin Component</i>

VIII. Contract Administration Data

a. Conduct of Work

1. The Contracting Officer's Representative (COR) will be designated at contract award.
2. The Contractor's work hereunder shall be carried out under the terms and conditions of the contract.

b. Ongoing Program Operation

1. The COR will provide technical direction on contract performance. Technical direction includes:
 - a. Direction to the contractor as to which areas the Contractor is to emphasize or pursue.
 - b. Comments on the approval of reports or other deliverables.
2. Technical direction must be within the contract, Statement of Work. The COR does not have the authority to issue technical direction that:
 - a. Institutes additional work outside the scope of the contract;
 - b. Constitutes a change as defined in HUD Procurement Handbook, 7460.8;
 - c. Causes an increase or decrease in the estimated cost of the contract;
 - d. Directs Housing Choice Voucher Federal program performance
 - e. Alters the period of performance; or
 - f. Changes any of the other express terms or conditions of the contract.
3. Technical direction will be issued in writing by the COR or confirmed by him or her in writing within five calendar days after verbal issuance.

c. Key Personnel

The personnel specified below are considered to be essential to the work being performed under this contract. Prior to diverting any of the specified individuals to other projects, the Contractor shall notify the Contracting Officer in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer, provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer. The Schedule may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

(To Be Inserted at Contract Award)

D. Project Management System

The Contractor shall provide to the COR and Contracting Officer, a project management system work plan and regular status reports showing actual progress against the work plan using a narrative description format.

1. Work Plan

The work plan shall consist of a narrative description summary of the schedule and financial elements of the contract. The narrative shall: (1) describe the planned schedule; (2) identify each step in the work process required for completing the contract work and the period of time needed to accomplish each step, expressed in terms of calendar dates; (3) provide the staff, financial, and other resources allocated to each task; and (4) provide the rationale for project organization, staff utilization, and other resources allocated to each task or activity. The narrative shall show (1) cumulative planned or budgeted costs of work scheduled for each reporting period over the life of the contract; and (2) the planned project schedule that traces, by reporting period, the task or subtask start dates, periods of work in progress, and completion dates.

2. Progress and Management Reports

Progress reports shall consist of a narrative report which depicts actual progress against planned progress. The narrative report shall: (a) Provide a brief, factual summary description of technical progress made, and costs incurred for each task (or group of tasks) during the reporting period; and (b) identify significant problems and their impacts, causes, proposed corrective actions, and the effect that such corrective actions will have on the accomplishment of the contract objectives. The progress report shall show (a) the schedule status or the degree of completion of tasks/activities by time intervals; and (b) cost status or the actual costs of work performed in accomplishing the tasks. Detailed management operational reports shall be presented to MHA's CEO and COO on a quarterly basis for the duration of the contract. The contractor will be asked to present an update to the MHA Board of Commission as least once per annum or upon the Board's request.

3. Preparation of Narrative Reports

Specific and detailed guidance on preparing the narratives may be obtained from the COR.

4. Schedule

The work plan shall be submitted within 10 days of the effective date of the contract. Progress reports shall be submitted on a monthly basis concurrent with the Contractor's submission of its monthly payment request. The first progress report shall be due the month after the work plan is approved. The work plan and progress reports shall be submitted in three copies to the COR and one copy to the Contracting Officer.

E. Payment Procedures

1. During the period of the contract, the Contractor shall be paid a negotiated fixed fee based upon administrative fees earned by MHA.

Contractor Wire Information

Payment shall be made to the Contractor's account by wire.

IX. Section 8 Management Assessment Program (SEMAP)

The contractor shall assure that MHA maintains a High Performer score using the following HUD SEMAP indicators to measure program performance:

1. Proper selection of applicants from the housing choice voucher waiting list
2. Sound determination of reasonable rent for each unit leased
3. Establishment of payment standards within the required range of the HUD fair market rent
4. Accurate verification of family income
5. Timely annual reexaminations of family income
6. Correct calculation of the tenant share of the rent and the housing assistance payment
7. Maintenance of a current schedule of allowances for tenant utility costs
8. Ensure units comply with the housing quality standards before families enter into leases and PHAs enter into housing assistance contracts
9. Timely annual housing quality inspections
10. Performing of quality control inspections to ensure housing quality
11. Ensure that landlords and tenants promptly correct housing quality deficiencies
12. Ensure that all available housing choice vouchers are used
13. Expand housing choice outside areas of poverty or minority concentration
14. Enroll families in the family self-sufficiency (FSS) program as required and help FSS families achieve increases in employment income.

All other evaluation or measurement criteria requirements that may be issued by the U.S. Department of Housing and Urban Development

X. Submission Requirements

All proposals shall include the following items:

- a. Copies of the most recent financial statements.
- b. Evidence of the firm's knowledge of HCV guidelines.
- c. Information regarding current and impending workload.
- d. Proof of Liability Insurance.
- e. Certified statement that the firms are not debarred from doing business with the housing authority.
- f. Letters of reference to include relevant experience.
- g. Evidence that the firm is licensed to do business in the State of Tennessee.
- h. Disclosure of any current litigation or litigation within the last two years.
- i. Percentage of work to be performed by subcontractors and identification of each subcontractor.
- j. Customer Service Plan
- k. Cost proposal submitted in a separate clearly marked envelope.
- l. One original and five copies of each proposal are required.
- m. Transition Plan.
- n. Fee price sheet (Enclosed in one envelope labeled "Fee Proposal")

Miscellaneous Information

- HCV Program reserves may not be accessed by the contractor.
- Staff training will be an expense of the contractor.
- The contractor should budget for a hearing officer for formal and informal hearings.
- Contractor shall provide all supervisory personnel and have full authority over personnel supervised, within the guidelines of MHA work rules, policies and procedures and memorandum of understanding. Contractor must also have the same work hours and observe the same holidays as MHA, unless changes are authorized by MHA. The staff will be subject to the contractor's policies but will adhere to the MHA business hours and dress code.
- MHA has adopted Biennial inspections. Does utilize self-certification of repairs.
- A landlord portal gives information that owners can access from Voyager. The user can see payment histories, statements, inspection results and 1099 records.
- Contractor will utilize existing office space and equipment. All office supplies, any additional office furniture and equipment will be the responsibility of the contractor. Any modifications and/or additions to the existing office space, furniture and equipment must be approved by MHA.
- Contractor will be responsible for the accurate and timely preparation of all HAP and UAP payments, budgets, financial analysis and reporting. The contractor will have access to all required financial information and supporting documents. MHA uses Voyager software and any modifications or changes made by the contractor must be acceptable to MHA and fall within the constraints of the current system.
- The current management information system is networked and approximately 45 workstations currently exist.
- The goal of MHA and HUD is to provide an effective, efficient Housing Choice Voucher Program to the community.
- A certificate of good standing from the contractor's home state submitted with the proposal is acceptable. If selected, the contractor shall register their corporation with the Office of the Secretary of State for the State of Tennessee.
- Lease-ups should be relative to the success of the owner outreach. There are 40 average monthly terminations.

- ❑ Regarding representation for lawsuits, if specifically named in litigation, the contractor is responsible for their legal representation. If the contractor is representing MHA, then MHA will be responsible for legal representation.
- ❑ Regarding Section 3 requirements, records must be maintained including copied correspondence, memoranda, etc., which document that the contractor has taken steps, to the greatest extent feasible, to provide opportunities for training and employment of lower income residents of the Section 3 area. The records will also serve to document, to the greatest extent feasible, that subcontracts have been awarded to business concerns which are located in or owned in substantial part by persons residing in the Section 3 area.
- ❑ MHA will maintain oversight of certain functions such as Information Technology, and related programs.
- ❑ MHA retains the unilateral right to request replacement of the Contractor's on-site Manager, if in MHA Chief Executive Officer's opinion replacement would be in the best interest of the Agency. Replacement must be made without undue delay.
- ❑ Letters of reference from former or current employers, which include experience as it relates to this particular work, are acceptable.
- ❑ There is a current waitlist of approximately 6,500 applications. The MHA has only one (1) HCVP waiting list. The waiting list is currently closed. MHA does not anticipate opening the list within the next 2 years. The last list opening was March, 2022. The last purge was in 2022.
- ❑ **The contractor shall be held responsible to achieving High Performer SEMAP standards during the contract period.**
- ❑ Insurance Requirements—Contractor will be required to provide Comprehensive General Liability policy with a minimum coverage of \$1 Million with a \$2 Million aggregate. MHA must be shown as an additional insured on the policy. Contractor will also be required to provide a certificate of insurance showing that workers compensation insurance is provided per Tennessee statutes for employees on payroll.
- ❑ **PENALTY CLAUSE—RECEIVING LESS THAN STANDARD PERFORMER DESIGNATION WILL RESULT IN A PENALTY OF UP TO 5% OF THE YEARLY CONTRACT VALUE FOR ANY YEAR IN WHICH STANDARD PERFORMER DESIGNATION IS NOT ACHIEVED.**
- ❑ **LOCATION—UNDER NO CIRCUMSTANCES CAN THE HCVP BE MOVED OUTSIDE OF MHA'S CENTRAL OFFICE LOCATION WITHOUT AGREEMENT AND PRIOR APPROVAL OF THE MHA. The contractor may operate a remote call center or other support operation if local to Memphis phone numbers and addresses is utilized at the contractor's expense.**

SECTION D

PROPOSAL CONTENT AND SUBMISSION REQUIREMENTS

The proposal to provide the required services shall not exceed twenty (60) pages total. This page count does not include financial statements, resumes, certificates, or affidavits. The proposal should contain the following components.

1. Letter of Intent.
2. Schedule – Include a proposed schedule for performing the services.
3. Profile – Provide a profile of the firm and members of the firm who will be assigned to this project. Include resumes of each proposed project member for this contract.
4. Experience – Provide a summary of the firm’s experience in providing the desired services for similar organizations or projects.
5. References – Provide a list of at least three references that have recent knowledge of the firm’s past performance.
6. Approach – Provide a narrative stating the firm’s overall approach to this project.
7. SEMAP verification from other PHA’s. Provide agency name, contract dates and contact person. MHA will verify the information provided.
8. Fee Proposal.
9. Liability Insurance – Provide evidence of professional liability insurance.

SECTION E

EVALUATION CRITERIA AND RATING SYSTEM

I. Relative Importance of Technical versus Cost/Price Factors

The Memphis Housing Authority (MHA) will make an award to the most responsible offeror whose offer conforms to the solicitation and is most advantageous to MHA (i.e., that which represents the best value to the MHA), cost or price and other factors considered. The combined relative merit of the technical evaluation factors listed below will be more significant than cost or price in the selection of the contractor. The cost or price is a criterion in the overall evaluation of proposals technical approach.

MHA may award a contract to a firm other than the lowest offeror. In the event that two or more offers are considered technically equivalent, the evaluated cost or price will be of primary importance in determining the proposal most advantageous to MHA.

II. Evaluation Factors

A. Technical and Management Factors

1. Demonstrated capability of the Offeror's team to operate HCV certificate, moderate rehabilitation, and voucher programs of the scope complexity and duration of the proposed contract; Awarded in accordance with the following:
 - a. Specialized experience and successful past performance record of the team applicable to administering the tenant-based certificate and voucher program **(25 points)**.
 - b. Experience applicable to coordinating programs that assist families in becoming less dependent on welfare. Examples...experience in other programs such as RAD Conversions, FSS, Project Based vouchers, VASH, mass relocations efforts etc. or any new HUD innovative programs. **(20 points)**.
2. Demonstrated capability of the Offeror to establish and maintain an effective management structure, information systems, internal controls, program and financial management for the proposed contract **(15 points)**.

3. Extent to which the Offeror's proposal demonstrates an understanding of contract work function requirements (including their interrelationships), feasibility of approaches to identified key issues, and an effective methodology for accomplishing preparatory, transition, and operational work tasks in a timely and quality manner, establishing an effective customer service system and meeting stated programmatic objectives **(20 points)**.
4. Demonstrated experience, capability, and availability of the Offeror's key personnel, including any proposed consultants or subcontractors, to accomplish the contract objectives **(10 points)**.

B. Cost Factor

The Offeror's proposed costs, while of secondary consideration to the above technical and management factors, will be evaluated in determining the proposal most advantageous to MHA.

Cost is a criterion in the evaluation of proposal. The proposed cost must be fair and reasonable. The proposed cost must also be realistic in that it must reflect the proposed approach that is being evaluated under the technical and management factors. Cost realism is as important as total cost. Cost realism is determined by MHA's estimate of the probable cost of accomplishing the effort, giving consideration to an offeror's methodology and understanding of the effort, proposed personnel, organizational capability, and probably effects of risks or uncertainties **(10 points)**.

SECTION F

FEE PROPOSAL

The fee proposal shall be submitted in a separate clearly marked sealed envelope.

A percentage rate of MHA Administration fee prorated from HUD to provide proposed services expressed as a percentage the program's administration fee to be shared with the contractor.

Administrative fees _____%.

SECTION G

REQUIRED CERTIFICATIONS

Non-Collusion Affidavit

Equal Opportunity Certification

Federal Labor Standards Certification

Drug-Free Workplace Certification

Disbarment and Suspension Certification

Section 3 Action Plan Outline

Section 3 Self-Certification Form

HUD 5370-C General Conditions for Non-Construction Contracts

HUD 2530 Previous Participation Certification

HUD 5369-B Instructions to Offerors Non-Construction Contracts

HUD 5369-C Certifications & Representations of Offerors Non-Construction Contracts

List of Proposed MBE/WBE Sub-Contractors and Sub-Consultants

SECTION H
ATTACHMENTS

HCVP ADMINISTRATIVE PLAN (MHA website; memphisha.org)

FY 22 AUDIT (MHA website; www.memphisha.org)

SAMPLE FORM OF CONTRACT

SECTION G

REQUIRED CERTIFICATIONS

Non-Collusion Affidavit

Equal Opportunity Certification

Federal Labor Standards Certification

Drug-Free Workplace Certification

Disbarment and Suspension Certification

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Section 3 Self-Certification Form

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HUD 5369-C Certifications & Representations of Offerors Non-Construction Contracts

List of Proposed MBE/WBE Sub-Contractors and Sub-Consultants

NON COLLUSION AFFIDAVIT

State of Tennessee

County of _____

I, _____, being duly sworn, depose and say:

That I am the _____ (title) of the firm of

_____, the party making the foregoing proposal; and

That such proposal is genuine and not collusive or a sham; and

That said Offeror has not colluded, conspired or agreed, directly or indirectly with any other offeror or person, to put in a sham offer or to refrain from offering, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the offer price or affiant or any other offeror, or to fix any overhead, profit or cost element of said offer price, or that of any other offeror, or to secure any advantage against the Memphis Housing Authority or any person interested in the proposed contracts; and

That all statements in said proposal are true.

*Subscribed and sworn to
before me this _____ day
of _____, 20_____*

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

EQUAL OPPORTUNITY CERTIFICATION

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

- A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that such applicants are recruited or 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The contractor or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitment under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor or subcontractor, where applicable, shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

*Subscribed and sworn to
before me this _____
day of _____ 20____.*

Notary Signature

My commission expires

Date

Company Name

Principal

Title

FEDERAL LABOR STANDARDS CERTIFICATION

I, _____, certify that I will comply with
Federal
Labor Standards and prevailing wage rates.

Signature of Principal

Company

Date

DRUG-FREE WORKPLACE CERTIFICATION

DRUG FREE WORKPLACE ACT OF 1988

41 U.S.C. 701 et seq.

54 FED REG 4946, et seq.

The undersign hereby certifies that he/she will provide a drug-free workplace by publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use will be taken against employees for violations of such prohibitions.

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

*Subscribed and sworn to
before me this _____ day
of _____, 20_____*

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

DEBARMENT AND SUSPENSION CERTIFICATION

By signing and submitting a proposal in response to the solicitation of the Memphis Housing Authority, the Respondent certifies to the best of its knowledge and belief that:

- Neither the Respondent nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any Federal Department or agency;
- Neither the Respondent nor any of its principals have been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery,

falsification or destruction of records, making false statements, or receiving stolen property;

- Neither the Respondent nor any of its principals are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in the foregoing paragraph of this certification;
- Neither the Respondent nor any of its principals have had one or more public transactions (Federal, State or local) terminated for cause or default; and
- Neither the Respondent nor any of its principals are currently engaged in litigation against the Memphis Housing Authority.

*Subscribed and sworn to
before me this _____ day
of _____, 20_____*

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

SECTION 3 ACTION PLAN OUTLINE

Provide a Section 3 Action Plan using the below outline:

- I. Overview
 - A. Description of the project's work detail
 - B. Proposed positions for new hires (including job description, if available)
- II. Description of how your company will advertise available positions.
- III. Implementation Schedule
 - A. Provide an overview of the activities involved in executing this plan
- IV. Description of the type of technical assistance your company will require from the Memphis Housing Authority in order to effectively implement your Section 3 Plan.
- V. Description of any creative or innovative ideas your company would like to implement in order to fulfill your Section 3 compliance obligations.
- VI. Overview of training opportunities to be provided by your company for public housing residents as an option for meeting your Section 3 requirements, if applicable.

SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION

The Offeror/Bidder represents and certifies that it: (Check which applies)

- is not a Section 3 business.
- is a Section 3 business as indicated below [check applicable category and subcategory]:
 - Category 1 Business**
 - Fifty-one (51%) or more owned by residents of the specific community or communities for which the Section 3 covered assistance is expended; or
 - Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.
 - Category 2 Business**
 - Fifty-one (51%) or more owned by residents of other communities managed by the Memphis Housing Authority that is expending the Section 3 covered assistance; or
 - Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.
 - Category 3 Business**
 - An entity selected to carry out a HUD Youthbuild Program in the metropolitan area, or non-metropolitan county, in which the Section 3 covered assistance is expended.
 - Category 4 Business**
 - Fifty-one (51%) or more owned by Section 3 residents; or
 - Full-time, permanent workforce includes no less thirty percent (30%) Section 3 residents; or
 - Will subcontract in excess of the twenty-five percent (25%) of the total amount of subcontracts to business concerns identified above.

Subscribed and sworn to
before me this _____ day
of _____, 20____

Notary

My commission expires

Date

Company Name

Principal

Title

Date

General Conditions for Non-Construction Contracts

Section II – (With 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. 1/31/2017)

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

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

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

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

1. Minimum Wages

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

in the classification under this Contract from the first day on which work is performed in the classification.

2. Withholding of funds

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

3. Records

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

4. Apprentices and Trainees

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

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

- (ii) trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
- (iii) A training/trainee program that has received prior approval by HUD.

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

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
 - (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

6. Contract Work Hours and Safety Standards Act

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

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

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

(c) Withholding for unpaid wages and liquidated damages.

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

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. 1/31/2017)

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

No member 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.

Previous Participation Certification

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

U.S. Department of Agriculture
Farmers Home Administration

OMB Approval No. 2502-0118
(exp. 7/31/2006)

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

For HUD HQ/FmHA use only

1. Agency Name and City where the application is filed _____

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

3. Loan or Contract Amount	4. Number of Units or Beds	5. Section of Act	6. Type of Project (check one)	7. Rehabilitation	8. Proposed (New)
			<input type="checkbox"/> Existing	<input type="checkbox"/> Rehabilitation	<input type="checkbox"/> Proposed (New)

List of All Proposed Principal Participants

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

8. Role of Each Principal in Project	9. Expected % Ownership interest in Project	10. Social Security or IRS Employer Number

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

I certify that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and Exhibits signed by me and attached to this form. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3602)

I further certify that:

- Schedule A contains a listing of every assisted or insured project of HUD, USDA-FmHA and State and local government housing finance agencies in which I have been or am now a principal.
- For the period beginning 10 years prior to the date of this certification, and except as shown by me on the certification:
 - No mortgage on a project listed by me has ever been in default, assigned to the Government or foreclosed, nor has mortgage relief by the mortgagee been given;
 - I have not experienced defaults or noncompliances under any Conventional Contract or Turnkey Contract of Sale in connection with a public housing project;
 - To the best of my knowledge, there are no unresolved findings raised as a result of HUD audits, management reviews or other Governmental investigations concerning me or my projects;
 - There has not been a suspension or termination of payments under any HUD assistance contract in which I have had a legal or beneficial interest;
 - I have not been convicted of a felony and am not presently, to my knowledge, the subject of a complaint or indictment charging a felony.

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

- I have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency.
- I have not defaulted on an obligation covered by a surety or performance bond and have not been the subject of a claim under an employee fidelity bond.
- All the names of the parties, known to me to be principals in this project(s) in which I propose to participate, are listed above.
- I am not a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined in Standards of Ethical Conduct for Employees of the Executive Branch in 5 C.F.R. Part 2635 (57 FR 36006) and HUD's Standard of Conduct in 24 C.F.R. Part O and

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

- I am not a principal participant in an assisted or insured project as of this date on which construction has stopped for a period in excess of 20 days or which has been substantially completed for more than 90 days and documents for closing, including final cost certification have not been filed with HUD or FmHA.
- To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any applicable civil rights laws.
- I am not a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.
- Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances which I think helps to qualify me as a responsible principal for participation in this project.

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

This form was prepared by (Please print name) _____

Area Code and Telephone No. _____

Previous editions are obsolete

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

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

Part II - For HUD Internal Processing Only

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

Date (mm/dd/yyyy) Telephone Number and Area Code A. No adverse information; form HUD-2530 approval is recommended. C. Disclosure or Certification problem

Staff Processing and Control B. Name match in system D. Other, our memorandum is attached.

Supervisor Director of Housing / Director, Multifamily Division Approved Yes No Date (mm/dd/yyyy)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Specific Line Instructions:

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

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

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

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

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

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

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

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

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

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

Instructions for Completing Schedule A:

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

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

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

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

Column 5 Explain any project defaults during your participation.

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

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

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

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

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

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

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

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. A response is mandatory. Failure to provide any of the information will result in your disapproval for participation in this HUD program.

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

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

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

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

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

Certification:

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

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

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

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

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) 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.

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.

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.

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;

(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:]

Certifications and Representations of Offerors Non-Construction Contract

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

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

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offerors 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:

**LIST OF PROPOSED MBE/WBE
SUBCONTRACTORS AND SUBCONSULTANTS**

The undersigned Offeror/Bidder proposes to subcontract with the following Minority-Owned Business Enterprises (MBE) or Women-Owned Business Enterprises (WBE) for this project. The Offeror/Bidder acknowledges that all MBE(es) and WBE(es) are to be listed on this form regardless of their subcontracting tier.

Business Name: _____

Address: _____

Type of Service(s): _____

Contact Name: _____

Contract Amount: _____ Percent of Project: _____

_____ MBE _____ WBE _____ Subcontractor _____ Supplier

Business Name: _____

Address: _____

Type of Service(s): _____

Contact Name: _____

Contract Amount: _____ Percent of Project: _____

_____ MBE _____ WBE _____ Subcontractor _____ Supplier

Business Name: _____

Address: _____

Type of Service(s): _____

Contact Name: _____

Contract Amount: _____ Percent of Project: _____

_____ MBE _____ WBE _____ Subcontractor _____ Supplier

Business Name: _____

Address: _____

Type of Service(s): _____

Contact Name: _____

Contract Amount: _____ Percent of Project: _____

_____ MBE _____ WBE _____ Subcontractor _____ Supplier

SECTION H
ATTACHMENTS

HCVP ADMINISTRATIVE PLAN (MHA website; memphisha.org)

FY 17 AUDIT (MHA website; www.memphisha.org)

SAMPLE FORM OF CONTRACT (Attachment)

VOUCHER PROGRAMS
CONTRACT MANAGEMENT AGREEMENT
BETWEEN

MEMPHIS HOUSING AUTHORITY

AND

Sample

This Housing Choice Voucher Program Contract Management Agreement (the Contract or the Agreement) between Memphis Housing Authority (MHA) and _____, Contract No: _____ is made effective as of the 1st day of April 2017 by and between the above organizations and is effective through March 31, 2018.

I. INTRODUCTION

The Memphis Housing Authority (MHA) was authorized by the U. S. Department of Housing and Urban Development (HUD) in 1977 to operate a Housing Choice Voucher Program. Approximately 7,879 vouchers are currently administered through the following programs:

Housing Choice Voucher Program (HCV)	6,634 Units
Mainstream Program	29 Units
Veterans Affairs Supportive Housing (VASH)	467 Units
Tulane/Warren Apts.	359 Units
Foote Homes - Sunset Provisional Vouchers	386 Units
DVP	4 Units

MHA was authorized under Chapter 615 of the Private Acts of 1935 by the Tennessee General Assembly. MHA is governed by a seven (7) member Board of Commissioners appointed by the Mayor of the City of Memphis and confirmed by the Memphis City Council.

Since 1977, MHA has administered a Housing Choice Voucher (formerly known as Section 8) Program, which is a federally subsidized housing program. The Program provides housing assistance to low-income family units in the City of Memphis and Shelby County, Tennessee. MHA offers, through the HCV Program, opportunities for rental assistance to lower income families by utilizing existing housing units in the City of Memphis and Shelby County, Tennessee.

II. TERM AND SCOPE OF SERVICES

- A. **Term of Contract.** The Contract shall be in effect three (3) years from April 1, 2019 until March 31, 2022. MHA may extend the contracted services an optional two (2) one-year terms.

- B. **Services.** The Contractor shall administer the above Voucher Programs, herein referred to as HCV, of MHA in accordance with (1) the specific requirements of this Contract, and (2) requirements of Federal statutes, and (3) Program regulations, directives, and guidance applicable to the HCV Programs expressly incorporated into this Contract and its attachments. The latter requirements are not stated in their entirety **in** this Contract. Rather, this Contract identifies core functions the Contractor shall administer in accordance with its approved work plan to be attached hereto after being completed by the Contractor and made a part hereof and the special programs described in Section V of this Contract.

The Contractor's accomplishment of these objectives shall be measured by the performance standards described in Section VI of this Contract ("Performance Standards").

III. Preparatory Activities

A. Transition Plan

The Contractor must provide MHA with a detailed transition plan to assume all operations of the department. Transition plan should include timeframes for hiring necessary staff, employee orientation, and an expected date for assuming complete control of the operations (as-requested).

B. Hiring and Training of Staff Needed to Operate the Program

1. The Contractor will provide staff sufficient to operate the HCV program in accordance with this contract and available program funding.
2. In the event program administrative fee rates are reduced to a level that requires a reduction in staff or required program expenses, MHA and Contractor will negotiate a level of service commensurate to available funding.
3. The Contractor may utilize consultants, subcontractors or temporary staff to complete various program activities and requirements at the Contractor's expense.
4. The Contractor will provide staff training as Contractor reasonably deems necessary.

C. Administrative Plan for the Housing Choice Voucher Program

MHA has a current Administrative Plan. The Contractor shall revise and update the current Administrative Plan as needed, considering changes in Federal policy regulations and MHA policy.

D. Information Technology System-Visual Homes

Contractor will utilize MHA's Information Technology Systems (ITS) for management of the HCV program. ITS includes, but is not limited to, MHA's system of record, Visual Homes software, databases, internet, websites, and other software. MHA will provide prompt and comprehensive support for all computer hardware, copiers, fax machines and telephones,

equipment and data, including all software that MHA supplies to the Contractor for performance of this Contract (collectively "MHA Furnished Property"). MHA and/or its ITS vendor and Visual Homes vendor will provide software support for the Visual Homes system. MHA ITS will assist the HCV department in making work requests promptly and resolving issues, including personnel system access requests, within 48 hours of request. MHA and/or its vendor is responsible for daily back-up of systems and data and will restore systems/data when needed within a reasonable timeframe of a system failure.

MHA warrants that MHA Furnished Property shall perform as intended and be suitable for its intended use. If MHA Furnished Property is received by the Contractor in a condition not suitable for its intended use, MHA shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying and returning or otherwise disposing of the property at the agency's expense. Upon completion of the required action(s), MHA shall consider an equitable adjustment to the contract.

IV. FUNCTIONAL AREAS

The operation of the HCV Programs requires the performance of certain core functions in conformance with program regulations, guidance and directives contained in program hand books, notices, and other policy documents. The following is a list of functional areas with a non-exhaustive listing of work to be performed in each area. Performance Standards for these functional areas are described in Section VI below.

A. Occupancy Functions

Opening of the waiting list, solicitation of applications, maintenance of the waiting list, and selection of families for participation. Initial and periodic verification of income and family composition, and calculation of tenant rent and HAP.

B. Unit Functions

Initial and periodic inspection of Program units to enforce compliance with HUD's HQS or any standards adopted by MHA or mandated by HUD.

Evaluation of requested rents in comparison with unassisted rents in the market area. Periodic review and revision of allowances for tenant-paid utilities.

C. Owner Outreach and Housing Opportunity Awareness

Activities performed by the Contractor in an effort to expand the participant's range of locational choices and reduce the concentration of assisted families in areas with high concentrations of low-income households.

D. Family Self Sufficiency (FSS) and Homeownership (SHAPE)

MHA will provide advance notification to the Contractor when FSS Coordinator grant funding is to be transitioned to the Contractor. Following MHA notification, the Contractor will implement its transition plan and assume responsibility for administering the FSS and SHAPE programs, and will provide SEMAP and/or any data/information associated with these programs as required by HUD. The Contractor will be expected to encourage participation by all HCV residents and should be able to provide documentation to MHA to support such encouragement. Contractor is responsible for the administration of these programs including enrollments, contracts of participation, services, monitoring escrow accounts and payouts, or PIC and SEMAP reporting.

E. HCV Financial Management

Contractor is responsible for the following: financial analysis, monitoring and reporting of HCV programs; accurate and timely rental and utility payments; preparation of HCV owners I 099s; assistance with preparation of voucher programs yearend audit; and as it relates to HCV, general ledger maintenance; preparation of annual budgets; funding requisitions and other HUD submissions, including VMS reporting.

F. Submission of 50058s

Contractor is responsible for submitting Family Report form HUD 50058 in accordance with HUD regulations.

V. SPECIAL PROGRAMS

In addition to the above core functions, the Contractor shall administer the following special programs:

A. Mainstream for Persons with Disabilities

The purpose of this program is to increase the supply of housing opportunities available to very low-income persons with disabilities by providing them with rental vouchers to access the private rental market.

B. Veterans Affairs Supportive Housing

The purpose of this program is to provide housing opportunity to very low-income persons as referred by the Veteran's Administration by providing them with rental vouchers to access the private market.

C. Applications for Additional Funds

During the Contract period, it is likely that HUD will publish Notices of Funding Availability (NOFA's) for new increments of Housing Choice Vouchers, Single Room Occupancy (SRO), Disaster Vouchers or other types of HCV program funds. The Contractor shall prepare recommendations for applications for additional funds from HUD on behalf of MHA.

VI. PERFORMANCE STANDARDS (EXHIBIT A)

A. Ongoing Program Operation

The Contractor shall ensure that:

1. At least 98% of HAP budget authority and/or authorized units, provided sufficient HAP funding, are utilized.
 - a. Contractor may utilize HAP Restricted Net Proceeds (RNP) and/or HUD-held program reserves (formerly known as Net Restricted Assets (NRA)) to achieve utilization, but may not exceed available RNP plus HUD-held program reserves without express authorization and prior written approval from MHA. MHA will comply with all HUD requirements and will not unreasonably withhold, condition or delay authorization and approval.
 - b. Contractor shall not be penalized for achieving less than 98% of HAP budget authority and/or authorized units, when funds/units are restricted by HUD such as vouchers with sunset provisions and/or when the program is dependent on outside referrals, e.g. VASH.
2. It will make its best effort to attain SEMAP high performer status.
3. Voucher Management System (VMS) is updated monthly in accordance with HUD requirements. HUD requires retroactive VMS updates to accurately represent units and dollars in the proper months. Contractor will, to the extent possible, be as efficient as possible in meeting HUD's VMS requirements.

B. Quality Control

The Contractor will be required to implement a quality control system used to measure program performance and identify and correct any performance weaknesses.

C. Financial Management

The Contractor shall:

1. Endeavor to maintain staff that have thorough knowledge of financial management for the voucher programs.
2. Ensure staff responsible for finance and accounting receive HCV Financial Management and Reporting training and keep up-to-date on HUD accounting notices.
3. Maintain accuracy of general ledger by reconciling activity and making adjustments as needed. Contractor's responsibility is limited to its own entries.
4. Maintain source documentation and files that support the financial transactions recorded in the general ledger, providing an audit trail.

5. Monitor available Budget Authority as allocated from HUD, for current and planned utilization.
6. Prepare a monthly report by program of leasing and funds analysis.
7. Prepare and update leasing projections and costs throughout the year.
8. Document annual contributions received and disbursed.
9. Maintain records for audit purposes, compliance and HUD reviews, etc.
10. Prepare and monitor the HCV budget as it pertains to the Contractor's operation of the HCV program. Contractor is not responsible for preparing and maintaining MHA's budget for central office or direct HCV program expenses.
11. Complete and ensure accuracy of all HUD reporting relating to the HCV program.
12. Prepare monthly HAP and UAP payments to landlords and tenants.
13. Prepare and distribute annual 1099's statements to vendors.
14. Respond to any IRS penalties in relation to 1099 records.

VII. Contract Administration Data

A. Conduct of Work

1. The Contracting Officer's Representative (COR) will be designated at contract award (as needed).
2. The Contractor's work hereunder shall be carried out under the terms and conditions of the contract.

B. Ongoing Program Operation

1. The COR will provide technical direction on contract performance. Technical direction includes:
 - a. Direction to the contractor as to which areas the Contractor is to emphasize or pursue.
 - b. Comments on the approval of reports or other deliverables.
2. Technical direction must be within the contract, Statement of Work. The COR does not have the authority to issue technical direction that:
 - a. Institutes additional work outside the statement of work or specifications of the contract including administration of new types of **vouchers or services**;
 - b. Constitutes a change as defined in FAR 52.243.1.
 - c. Causes an increase or decrease in the estimated cost of the contract;
 - d. Alters the period of performance; or
 - e. Changes any of the other express terms or conditions of the contract.
3. Technical direction will be issued in writing by the COR or confirmed by him or her within five calendar days after verbal issuance.

C. Key Personnel

The personnel specified below are considered to be essential to the work being

performed under this contract.

(Names)

During the first 120 days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. Proposed substitutions of key personnel require the Contracting Officer's prior approval, which will not be unreasonably withheld, conditioned, or delayed.

"Divert" in the clause means to reassign key personnel for reasons other than illness, death, or termination of employment. Prior to diverting any of the specified individuals to other projects, the Contractor shall notify the Contracting Officer in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer, provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer. The Schedule may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

D. Project Management System

The Contractor shall provide to the COR and Contracting Officer, regular status reports showing actual progress against the work plan using a narrative description format.

1. Progress Reports

Progress reports shall consist of a narrative report which depicts actual progress against planned progress. The narrative report shall: (a) Provide a brief, factual summary description of technical progress made during the reporting period; and (b) identify significant problems and their impacts, causes, proposed corrective actions, and the effect that such corrective actions will have on the accomplishment of the contract objectives.

2. Preparation of Narrative Reports

Specific and detailed guidance on preparing the narrative may be obtained from the COR.

3. Schedule

Progress report shall be submitted on a monthly basis no later than the 15th day of the following month. The first progress report shall be due the month after the contract effective date. The progress reports shall be submitted electronically to the COR and the Contracting Officer (as-requested).

E. Payment Procedures

1. MHA's administrative fee earnings are provided from HUD and may be prorated based upon HUD calculations of federal

appropriations.

2. Electronic fund transfers to Contractor will be completed no later than 5 business days after MHA receives administrative funds from HUD ("Due Date"). Details on the transfer of funds from HUD will be coordinated with the COR and the Contractor. Upon receipt of Administrative fee funds from HUD (including any special fees associated with HCV program management such as placement fees, hard-to-house fees, etc.), MHA will then electronically transfer to Contractor, the percent of fees due to Contractor as defined below.
3. The Contractor will be paid at a rate of (fee) of MHA's administrative fees earned related to the one (1) year service period from April 1, 2019 through March 31, 2020. If HUD's proration of the administrative fees is between 76% and 100%, MHA shall pay the Contractor at a rate of (fee)% of the administrative fees earned by MHA. If HUD's proration of the administrative fees is below 76% for some amount of time during the service period, MHA may pay Contractor less than 76% proration during that amount of time as long as Contractor is never paid less than the higher of a) (fee)% of contract year-to-date administrative fees or b) administrative fees at a 76% proration.

A true-up review will occur at calendar year end, to account for any HUD retroactive actions, reconciliations, or delayed payments that result in additional fees. During each review, MHA will perform a calculation to ensure that Contractor receives reimbursement for any period where Contractor should have received an additional payment. For example, if in January MHA was paid at 76% proration and pays Contractor 75.5% of 76% proration, and later HUD raises proration for that period to 78%, Contractor is entitled to 75.5% of 78% proration for that month. In addition, true-up reviews will continue to occur until all fees related to the one (1) year service period have been paid by HUD to MHA, and MHA to Contractor, regardless if the performance period or contract term has ended. For example, HUD pays MHA administrative fees related to the one year period in December 2018. Although the service period ended March 31, 2018, these fees were related to the service period and Contractor is entitled to its share of these fees.

With regard to HUD reconciliations, all payments from HUD will be assigned to the respective period of service and Contractor will receive its part of the payments regardless of when the payments are received. All of MHA's obligations to Contractor related to such payments, and the provision of the HUD information related to them, shall survive until all funds from HUD related to the service period received by MHA and paid to Contractor via electronic funds transfer within 5 days after MHA receives funds from HUD. If funds due to Contractor are received from HUD after the Contract term, Contractor remains entitled to such funds

4. Except as provided in the Allowable Cost, Payment, and Payment

Procedures Clause in this Contract, MHA shall not have the right to set off or apply any amounts owed by the Contractor, its subsidiaries and affiliates, against any amounts owed or which may subsequently be owed by the Contractor to MHA, its subsidiaries, affiliates or their successor in interest.

5. MHA is responsible for payment of bills/invoices for expenses incurred for the HCV department prior to contract effective date, regardless of billing or invoice date.

VIII. Section 8 Management Assessment Program (SEMAP)

The contractor shall endeavor to maintain a High Performer score using the following HUD SEMAP indicators to measure program performance:

- #1 Waiting List
 - #2 Rent Reasonableness
 - #3 Adjusted Income
 - #4 Utility Allowance Schedule
 - #5 Quality Control Inspections
 - #6 HQS Enforcement
 - #7 Expanding Housing Opportunities
 - #8 Payment Standards
 - #9 Annual Re-examinations
 - #10 Collect Tenant Rent
 - #11 Pre-contract HQS Inspections
 - #12 Annual HQS Inspections
 - #13 Lease-Up
 - #14 FSS (Contractor assumes responsibility for performance of this indicator following transition of FSS (see IV. D. above)
- Deconcentration Bonus

All other evaluation or measurement criteria requirements that may be issued by the Department of Housing and Urban Development.

IX. MHA Review/Oversight

The Contractor's Managing Director will attend executive team meetings with the MHA Executive staff (as required), regular meetings with the MHA Contracting Officer's Representative, monthly MHA board meetings, and other HCV program meetings with MHA staff. MHA will not require the Managing Director to attend meetings other than those regarding direct HCV program activities.

X. Reports and Reporting Requirements

The Contractor shall prepare the following reports and submit such reports to the MHA and HUD on a timely basis as describe below:

1. Monthly Reports:

Due Date: the 15th of each month for the preceding month. The Contractor shall prepare and submit monthly statistical reports on all SEMAP performance indicators under this contract.

2. Other Documents:

In addition to preparing the monthly reports and progress reports described above, the Contractor shall be responsible for maintaining and proposing modifications to other documents, previously approved by MHA and HUD, such as the Administrative Plan updates and revisions.

The Contractor shall submit all data as required by MHA and HUD in a timely manner.

3. MHA will provide to the Contractor, the following reports and communications within 2 days of receipt from HUD:

- HUD letters addressing ACC extensions
- HCV funding increments and prorations
- BCV-related communications and notifications (audit reviews, findings, site visits, inquiries, etc.)
- Administrative fee and BCV-related payments/deposits received from HUD

XI. ALLOWABLE COSTS, PAYMENT AND PAYMENT PROCEDURES

A. Expenses Covered by (Contractor) Fee (EXHIBIT B)

The attached table entitled Expense Service Level Agreement details allowable expenses and designates the division of fees between Contractor and MHA.

B. Funding and Compensation

MHA agrees that the Contractor may implement any or all of the following cost savings initiatives in order to achieve operational efficiencies:

- a. Tenant online forms
- b. Owner self-certifications
- c. Biennial inspections
- d. Background checks

In the event that MBA requests the Contractor to perform additional services that exceed the scope of this Contract, such changes must be agreed upon in writing by both MHA and the Contractor including additional compensation for these services. Examples include but are not limited to:

Implementation of city code enforcement criteria and/or request for additional inspections.

Other actions that create additional costs for the Contractor

3. Compensation may be increased if additional services are agreed upon by both parties.

XII. SPECIAL CONTRACT REQUIREMENTS

A. Fidelity Bond

Within ten days of the effective date of this contract, the Contractor shall submit to the Contracting Officer evidence of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers. The Contractor shall assure that such coverage remains in effect throughout the term of this Contract and shall provide the Contracting Officer prior written notice of any proposed material change in fidelity bond coverage.

B. Compliance with All Laws/Government Orders

The Contractor shall at all times observe and comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government which may in any manner affect the performance of this Contract.

C. Non-Discrimination and Other Federal Requirements

Specifically, the Contractor shall comply with all applicable requirements of the following, as the same may be amended from time to time:

1. The Fair Housing Act, 42 U.S.C. 3601-19, and regulations issued (hereunder, 24 CFR Part 100, Executive Order 11063 Equal Opportunity in Housing) and regulations issued thereunder, 24 CFR Part 107; the fair housing poster regulations, 24 CFR Part 110, and advertising guidelines, 24 CFR Part Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and regulations issued thereunder relating to non-discrimination in housing, 24 CFR Part I.
2. Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and regulations issued thereunder, 24 CFR Part 146.
3. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and regulations issued thereunder, 24 CFR Part 8; the Americans with Disabilities Act, 42 U.S.C. 12181-089, and regulations issued thereunder, 28 CFR Part 36.
4. If applicable, Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and its implementing regulations at 24 CFR Part 36.
5. Sub-grantee/Contractor Subcontractor Certifications and Assurances, which has been signed by the Contractor.
6. General Conditions for Non-Construction Contracts, Section I form HOD-5370-C attached hereto as a reference to the contract.

D. Prompt Actions

The Contractor shall take such actions as may be necessary to comply promptly with any government order properly issued by any duly constituted government authority, whether such authority is a federal, state, county or municipal authority. MHA agrees that Contractor shall not be liable for any claim (hereafter defined) of any third party arising there from.

E. Conflict of Interest

To Contractor's knowledge, the Contractor ensures that neither its entering into this Contract nor its performance of any services hereunder will result in an actual or apparent conflict of interest on its part. For purposes hereof, a conflict of interest includes, but is not limited to, circumstances under which the Contractor may become biased with respect to the services, gain an unfair competitive advantage or otherwise not be in the best interest of the client with respect to the services. The Contractor further warrants that it will promptly notify MHA of any such actual or apparent conflict of interest of which it becomes aware after the execution of this Contract and during the term of the Contract or for one (1) year thereafter.

F. Risk Management

1. Insurance

Except as expressly provided for in this Contract to the contrary, the Contractor shall purchase at its own expense and maintain at all times, insurance in a form reasonably acceptable to the MBA with companies that are financially responsible, highly rated, authorized to do business in the State of Tennessee. The Contractor shall cause all of its sub-consultants to purchase and maintain insurance on policy

forms and in amounts similar to that required of Contractor under this Contract (the Contractor may provide coverage for any sub-consultant), which insurance will provide coverage for Claims that arise out of, in connection with, or result from work performed by the Contractor or its sub-consultants under this Contract. Non- fulfillment of the insurance provisions shall constitute a breach of this Contract and the MBA will retain the right to stop work until proper evidence of insurance is provided. The Contractor and each sub-consultant expressly understand that any coverage and limits furnished by the Contractor shall in no way limit the Contractor's liabilities and responsibilities specified within this Contract or by law.

- a. Workers Compensation and Occupational Disease Insurance. The Contractor shall maintain coverage as required by law of the State of Tennessee for its employees or sub-consultants.
- b. Commercial Liability Insurance (Primary and Umbrella). The Contractor's Commercial Liability Insurance or equivalent shall name MHA as an additional insured on a primary, non-contributory basis. Coverage extensions shall include sub-consultants, cross liability, broad form property damage and blanket contractual liability. Limits of liability shall be not less than the following:

Bodily Injury Coverage
\$1,000,000 Each Occurrence
\$1,000,000 General Aggregate

Personal Injury Coverage
\$ 1,000,000 Each Occurrence
\$ 1,000,000 General Aggregate

Property Damage Liability Coverage
\$ 1,000,000 Each Occurrence
\$ 1,000,000 General Aggregate

G. Automobile Liability Insurance (Primary and Umbrella).

The Contractor's and any sub-consultants' automobile liability insurance shall name the MHA as an additional insured on a primary non-contributory basis. Coverage shall be provided for all non MHA employees operating any motor vehicle (owned, leased and/or hired) used in connection with the services to be performed under this Contract. Limits of liability shall be not less than the following:

Bodily Injury
\$ 1,000,000 Combined Single Limit

Property Damage
\$ 1,000,000 Combined single limit

H. Professional Liability Insurance.

Any licensed professional within the employment of the Contractor or sub-consultants performing services with this Contract shall provide professional liability insurance covering torts or omissions. Coverage extensions shall include Blanket Contractual Liability. At policy renewal or replacement, the policy retroactive date must coincide with, or precede, start of services under this Contract. Claims made policy, which is not renewed or replaced, must have an extended reporting period of one year. Limits of liability shall be not less than the following:

Professional Liability
\$ 1,000,000 Annual Aggregate

I. Fidelity and Employee Dishonesty.

The Contractor shall maintain coverage for its employees with limits of liability not less than the following:

Fidelity and Employee Dishonesty
\$100,000

J. Evidence of Insurance.

The Contractor and its sub-contractors shall furnish the MHA original certificates of insurance evidencing the required coverage to be in force on the date of this Contract and renewal certificates of insurance, or similar evidence, if the coverage has an expiration or renewal date occurring during the term of this Contract.

The failure of the MHA to obtain certificates or other insurance evidence from the Contractor shall not be deemed to be a waiver by the MHA.

K. Indemnification

- 1.** Contractor's Indemnification of the MHA. The Contractor agrees to indemnify, defend, and hold MHA harmless against the following:
 - a. Any claims or demands (together, the "Claims") that are made by third parties for bodily injury (including death) to persons or physical damage to property, to the extent that such Claims (i) arise out of the Contractor's administration of the HCV Program specified hereunder; (ii) arise after the effective date of this Contract; and (iii) to the extent such Claims are caused solely by the negligence or intentional misconduct of the Contractor, its employees or sub consultant;
 - b. Any resulting losses, damages, liabilities and expenses (including costs, expenses and reasonable attorneys' fees on account thereof). MHA acknowledges, however, that such losses, damages, liabilities and expenses shall not include, and Contractor shall not be liable for, any over- or underpayments associated with any Housing Assistance Payments made under this Contract; and
 - c. The Contractor shall not be liable for claims stemming from incidents or occurrences that precede the execution of this Contract.
 - d. Contractor acknowledges that current case law and prior Attorney General opinion prohibit governmental entities from contractually agreeing to indemnify or hold harmless another governmental or private person or entity.

XIII. MHA's Responsibility to the Contractor

MHA agrees to be responsible to protect and defend the Contractor against the following:

1. Any Claims and resulting losses, damages, liabilities and expenses (including costs, expenses and reasonable attorneys' fees on account

- thereof) that are made by third parties for bodily injury, (including death) to persons or physical damage to property, to the extent that such Claims (i) relate to the negligent acts or intentional misconduct of the MHA or its employees; (ii) and arise after the effective date of this contract;
2. Any over or under payments associated with any Housing Assistance Payments made under this Contract, and shall be repaid from MHA's administrative reserves;
 3. The MHA shall be liable for and defend claims against the Contractor stemming from incidents or occurrences that precede the execution of this Contract.
 4. Notwithstanding anything to the contrary in this Contract, MHA shall be afforded all the rights and immunities of a governmental entity operating within the State of Tennessee, including the immunities afforded by the Tennessee Governmental Tort Liability Act. Tenn. Code Ann. § 29-20-101 et seq.
 5. Process. The party seeking indemnification or responsibility (the "Requesting Party") shall notify the other party promptly of any written claims for which the other party is responsible under this Contract. The Requesting Party shall not settle any such Claim (other than with respect to monetary amounts as to which the Requesting Party assumes full responsibility) without prior written notice to and written approval from the other party. The Contractor shall promptly reimburse MHA for the amounts which have been awarded in a final judgment by a court of competent jurisdiction and for which the Contractor has agreed to indemnify the MHA. MHA will promptly pay items for which it is responsible. Prior to accepting any service of process for the other party, the party shall contact the Designated Representative for the other party. If, for any reason, the Requesting Party is unable to reach the other party, notice shall be given to the process server of the address and telephone number of such Designated Representative under this Contract for purposes of service. In the event that service is mistakenly accepted, immediate notification shall be given to the other party or Designated Representative.
 6. Non-liability of Public Officials. No member, official or agent of the MHA, HUD, or the City of Memphis shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the MHA or for any amount which may become due to the Contractor or on any obligation under the terms of this Contract. This provision does not preclude any personal liability of any member, official or agent of MHA, HUD, or the City of Memphis, which does not arise from a breach by MHA or from the terms and obligations of this Contract.

XIV. DISPUTES

Reference General Conditions for Non-Construction Contracts, Section I, form HUD- 5370-C, 7. Disputes.

XV. EVENTS OF DEFAULT, PROCEDURES UPON TERMINATION

A. Events of Default Defined

The occurrence of any of the following which Contractor shall fail to cure within 30 calendar days after receipt of written notice from the MHA given in accordance with the terms of this Contract and specifying the facts which constitute the default (provided, however, that in the event such cure cannot reasonably be effected within such 30-day period and Contractor begins such cure within such 30-day period, then Contractor shall have such additional time as is reasonably necessary to effect such cure, and in such event, Contractor shall not be in Default (hereafter determined under this Contract), shall constitute an Event of Default:

1. Any willful material misrepresentation, whether in the inducement or in the performance, made by Contractor to HUD or MHA.
2. Contractor's material failure to perform any of its obligations under this Contract including, but not limited to, the material failure to perform any of the following:
 - a. Failure to (i) materially perform the Services described in Sections II and III of this Contract and (ii) materially satisfy all the Performance Standards during the term of this Contract.
 - b. Failure to operate the HCV Program on a fraud-free manner provided the principals of the Contractor have actual knowledge of such fraud.
 - c. Failure to comply with a material term of this Contract, including, but not limited to, the provisions concerning compliance with HUD regulations, insurance and nondiscrimination; and
 - d. Breach of any material provision of this Contract or any other acts specifically and expressly stated in this Contract as constituting an Event of Default.

Reference also General Conditions for Non-Construction Contracts, Section I, form HUD- 5370-C, 3. Termination for Convenience and Default.

B. Termination

Reference General Conditions for Non-Construction Contracts, Section I, form HUD-5370-

C, 3. Termination for Convenience and Default.

C. Procedures Upon Termination

1. Upon termination for cause, the Contractor shall submit to MHA any financial statements reasonably required by the MHA. After the parties have accounted to each other with respect to all matters outstanding as of the date of termination, MHA will furnish the Contractor with security in a form and principal amount satisfactory to the Contractor that reasonably protects Contractor against any and all obligations or liabilities which the Contractor may properly have included on behalf of MHA hereunder.

In the event this Contract is terminated for "no cause" after the first 120 days of the Contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of MHA using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. MHA may audit the Contractor's records for this project only. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

The Contractor and the MHA may agree on the whole or any part of the amount to be paid because of the termination. However, the agreed amount may not exceed the Total Contract Price as reduced by (i) the amount of payments previously made and (ii) the contract price of work not terminated, The Contract shall be amended, and the Contractor paid the agreed amount.

The contractor shall have the right of appeal, under the Disputes clause, from any determination made by the MHA hereunder. If the MHA has made a determination of the amounts due hereunder, the MHA shall promptly pay the Contractor (i) the amount determined by the MHA if no timely appeal has been taken, or (ii) the amount finally determined on appeal.

XVI. INFORMATION TECHNOLOGY SYSTEMS

- A. It is a condition of the Contractor's required use of the MHA's Information Technology Systems (ITS) that the security of information of a financial or management nature that is not specifically necessary to perform the Contractor's Services, such as proprietary financial information of Contractor and its affiliates, personnel information of Contractor and its affiliates, and communications between employees of Contractor and its affiliates, remain strictly within the control of the Contractor.
- B. Contractor may, upon written notice, request that MHA provide remote access to ITS and/or implement upgrades to MHA's existing ITS and computing facilities that Contractor reasonably believes are necessary for Contractor to perform its obligations under the Contract and to continue meeting any contractually specified Performance Standard or HUD requirement. Said written notice shall detail the required upgrade and/or remote access, and reasons why such upgrade and/or remote access is necessary. The MHA shall act promptly to review such a request, and if approved, implement such request within a reasonable_ time, provided funding is available from

the federal government. MHA shall not unreasonably withhold approval. To the extent that MHA delays or fails to make such upgrade and/or provide remote access, to the extent required above, and such delay or failure prevents Contractor from meeting any Performance Standard or HUD requirement, Contractor shall not be in any way penalized, disincentivized or found in default, and Contractor shall be entitled to receive all regular fees to the extent Contractor reasonably establishes it would have earned and been entitled to receive such fees but for the failure or degradation in the performance of MHA's ITS or failure to provide remote access.

- C. To perform Contractor's Services, MHA shall provide Contractor with 24/7 real-time read and write access to all information relating to HCV Program functions maintained on the MHA's ITS, including the ability for Contractor to develop and generate rep011B from MHA's ITS database. Contractor shall give MHA prompt notice, but in no event longer than 24 hours, of any failure or degradation in performance of MHA's ITS, which notice shall be by telephone call to MHA's ITS Helpdesk and/or e-mail to MHA's ITS Helpdesk, and the MHA shall promptly commence to act and reasonably continue to remedy the failure or degradation. If the failure or any degradation in the performance of the MHA's ITS, not caused in whole or in part by Contractor, prevents Contractor from meeting any Performance Standard or HUD requirement, Contractors shall not in any way, be penalized, disincentivized or found in default, and Contractor shall be entitled to receive all regular fees to the extent Contractor reasonably establishes it would have earned and been entitled to receive such fees but for the failure or degradation in the performance of MHA's ITS.

MHA shall reasonably coordinate downtime of the system with Contractor. The MHA shall (except in the case of emergency) give Contractor reasonable and adequate notice by telephone and/or e-mail of any plan for downtime in the MHA's ITS, which plan for downtime shall be subject to the reasonable approval of Contractor before the downtime occurs. The MHA shall plan and schedule any downtime during non-business hours, when reasonably possible.

XVII. MISCELLANEOUS

A. Governing Law

This Contract shall be governed as to performance and interpretation in accordance with Federal law's and the laws of the State of Tennessee. The Contractor hereby irrevocably submits itself to the original jurisdiction of those courts located within the State of Tennessee, with regard to any controversy arising out of or relating to, or in any way concerning the execution or performance of this Contract.

B. Severability

If any portion of this Contract is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Contract and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Contract.

C. Interpretation

1. **Headings.** All headings within this Contract are for convenience of reference only and do not define or limit the provisions thereof
 2. **Gender.** Words of any gender shall be deemed and construed to include correlative words of the other gender.
 3. **Number.** Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate.
 4. **Exhibits or Documents.** All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions hereof and thereof
 5. **Person or Entity.** All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such persons or entities in accordance with the terms and conditions of this Contract.
- D. **Entire Contract.** This Contract comprised of this Contract and the Exhibits attached hereto and incorporated herein, shall constitute the entire Contract between the parties and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Contract that are not expressly addressed herein and therein. The Contract includes the following exhibits:
1. Performance Based Disincentives (Exhibit A)
 2. Expense Table of Responsibility (Exhibit B)
- E. **Assigns, Cooperation, and Waiver**
1. **Assigns.** All of the terms and conditions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees and assigns.
 2. **Contractor's Cooperation.** The Contractor agrees at all times to cooperate fully with the MHA and to act in the MHA's best interests. If this Contract is terminated for any reason, or if it is to expire on its own terms, the Contractor shall make reasonable efforts to assure an orderly transition to another contractor, if any, orderly demobilization of Contractor's own operations in connection with the work, uninterrupted provisions of work during any transitional period, and shall otherwise comply with the reasonable requests and requirements the MHA in connection with the termination or expiration of this Contract.
 3. **Current and Future Assignment of (Contractor) Personnel**

In the event that MHA reasonably determines that the (contractor) on-site Manager is not satisfactorily carrying outt (contractor) responsibilities under the Contract, the parties will meet to discuss how to resolve any perceived performance problems. If the parties mutually agree that perf0Imance problem exists (contractor) will have 30-days to cure the

problems identified by MHA. If after the 30-day period, MHA determines that the problem has not been cured, (contractor) agrees to replace the employee within sixty (60) days subject to MHA's prior review of the substitute's qualifications, experience and expertise in the industry and assigned position.

4. **MHA's Cooperation.**

MHA agrees to:

1. (As-needed) establish a Contract Performance Review Committee.

The Contract Performance Review Committee shall consist of representatives from MHA and (contractor). The Committee shall meet as-needed to review management issues and other matters related to the smooth, orderly and efficient management and cooperation of the I-ICV Programs. Quade! will participate by phone if key personnel are unable to travel to Memphis for the Committee meeting. It shall be the duty of the Committee to: review the performance status of the services set forth in the scope of work; and 2) resolve issues to achieve the performance goals of this Contract. Any proposed modifications of this Contract of any kind must be approved in writing by MI-IA and Quade!.

Forward all correspondence from HUD, local government officials, auditors, to (contractor) within 2 days of receipt by MHA.

Provide to (contractor) HVC Program Annual Budget Authority (ABA) awards of new increments, ACC extensions, and funding notifications

2. Provide ITS support and regular, useful reports from MI-IA's computer system as needed. Modify existing reports or initiate new reports when contractor reasonably requests.
3. Provide a reasonable level of management information services to the I-ICV Department, including the purchase of hardware and software, when recommended by contractor the best interests of the HCV Program.
4. Provide, at MHA's cost, a clean, safe working environment with janitorial and repair services, and adequate work space.
5. Cooperate with any requests or other communications to HUD or other federal, state, or local agencies for approval of HUD Program policy changes, such as changes to the Administrative Plan.
6. Cooperate with contractor in the scheduling of interviews and briefings for HCV applicants and participants in order to avoid

any conflicts in use of the meeting room which the HCV Program shares with the Public Housing Program.

7. Cooperate fully with contractor responding to and resolving any lawsuits or other legal actions which occur related the HCV program. MHA is responsible for all legal costs related to HCV program related legal actions including but not limited to program rules, landlord/tenant cases, fair housing, etc. The contractor is responsible for legal costs related to contractor's personnel issues such as EEOC claims.
8. Inform and consult with contractor of any planned MHA Programs which affect the HCV Program in any way.
9. Make the MHA facilities available to contractor for HCV purposes when requested reasonably in advance.
10. Inform and consult with contractor on any proposed physical move of program offices and pay any costs related to such a move.
11. Provide secure systems, internet connections, telephone systems, records storage, and facilities.
12. Provide access and use of agency web site for the HCV program.
13. Hold primary and overall responsibility for MHA's General Ledger. Although Contractor will perform work in the General Ledger, MHA is the official keeper of the General Ledger and performs work in it independently of Contractor that may impact HCV accounting. (E.g. MHA makes adjustments related to MHA audits).
14. MHA will share accountability for HCV financial records with which both parties interact. MHA will meet quarterly to review and accept financial documents created by Contractor.

5. **Waiver.**

Whenever, under this Agreement, the MHA, by a proper authority, waives contractor performance in any respect or waives a requirement or condition to either the MHA's or contractor performance, the waiver so granted shall only apply to the particular instance and shall not be deemed a waiver forever or for subsequent instances of the performance requirement or condition. No such waiver shall be construed as a modification of the Contract regardless of the number of times the MHA may have waived the performance, requirement or condition.

6. **Notices.**

All correspondence and notices required pursuant to this Contract shall be addressed:

a. To the Contractor at:

b. To the MHA at:

Memphis Housing Authority
Attn: 700 Adams Avenue
Memphis, Tennessee 38105

7. **Communications between the parties.** All verbal and written communications, including required reports and submissions, between the Contractor and the MHA shall be through the Contracting Officer, Designated Representative, or Contractor, as applicable. No verbal communications between the parties shall be construed as a waiver or modification of the requirement for notice or service of process for litigation, as set forth in the Tennessee Rules of Civil Procedures, the Federal Rules of Civil Procedure and the local rules governing the applicable County and U.S. District Court.
8. **MHA's Authority. Execution** of this Contract is authorized by the MHA Board of Commissioners, pursuant to the United States Housing Act of 1937, regulations promulgated by HUD, and the Tennessee Housing Law at Tenn. Code Ann. § 13-20-101 et seq., and the Charter and Ordinances of the City of Memphis, and all other applicable laws and regulations.
9. **Contractor's Authority.** To the extent applicable, execution of this Contract by the Contractor is authorized by a resolution of its Board of Directors or by the signature of each person signing on behalf of the Contractor, with the complete and full authority to commit the Contractor to all terms and conditions of this Contract, including each and every representation and certification contained herein.
10. **Assignment.** This Contract shall not be assigned by the Contractor, except with the written consent of the MHA.
11. **Limitation of Contractor's Liability for Claims.** Contractor acknowledges and agrees that the inspections, re-inspections, certifications and recertifications required under this Contract, and to be performed by Contractor in accordance herewith, are for the exclusive benefit of HUD and MHA, and not for the benefit of any such tenants, owners or other third parties. Accordingly, notwithstanding anything to the contrary

contained in this Contract, MHA represents and warrants that MHA, not the Contractor, shall be responsible for any Claim made by any tenant or owner of any unit (including such tenant's and/or owner's guests, invitees, agents and representatives) or any third party based upon the failure to inspect, re-inspect, certify and /or recertify (as applicable) any unit, until the Contractor has actually performed such **inspections, re-inspections, certifications and/or re-certification**, as applicable, relative to the unit which is the subject of the Claim, or the end of the Transition Period, whichever is earlier.

Contractor's maximum aggregate liability arising from a specific order is limited to the total dollar amount of products or services ordered under that order. The maximum aggregate liability arising from the entire Contract is limited to the total dollar amount of products or services that MHA ordered under the Contract.

EXCEPT AS EXPRESSLY PROVIDED ELSEWHERE IN THIS CONTRACT, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES NOR FOR ANY LOSS OF GOODWILL, PROFITS, DATA, OR LOSS OF USE ARISING OUT OF, RESULTING FROM, OR IN ANYWAY CONNECTED WITH THE PERFORMANCE OR BREACH OF THIS CONTRACT, EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. **Amendments.** Neither this Contract nor any provision hereof may be amended, modified, changed, waived, discharged or terminated, except by an instrument in writing signed by the party against which **enforcement of the amendment, modification, change, waiver, discharge or termination** is sought.
13. **Further Assurances.** The parties hereto hereby agree to promptly execute, swear to, acknowledge under oath, and deliver such further documents and instruments, and to promptly do such further acts and things, as may be necessary, appropriate or incidental to carry out the intent and purpose of this Contract.
14. **Counterparts.** This Contract may be executed and signed, and the signatures hereto acknowledged, in one or more counterparts and, in such event, all such counterparts shall constitute originals and all such counterparts shall constitute a single contract.
15. **Holidays, etc.** Whenever the last day for the performance of any Act required by any party under this Contract shall fall upon a Saturday, Sunday or legal holiday observed by the Memphis Housing Authority the date for the performance of any such act shall be extended to the next succeeding business day which is not a Saturday, Sunday, or such holiday.

10. Consent, approval,, etc. The parties hereto agree that .any consent, approval, determination modification, agreement partition or other agreement required; requested. demanded or otherwise necessary hereunder shall not be unreasonably withheld) delayed or conditioned.

IN WITNESS WHEREOF, the MHA. With Contract have caused this Section 8 Contract Management Contract to be executed as of the year and date first written above by their respective duly authorized representatives.

MHA: Memphis Housing Authority

Contractor



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Exhibit A

Each Administration Component will be subject to one (1) or more performance standards. The Contractor is expected to consistently perform at no less than the minimum performance requirements listed below. While all minimum performance requirements are important; disincentives may be applied for performance of the Administration Component. Each performance standard will be measured by MHA and Quade! based upon standards and methodologies of measurement mutually agreed upon by MHA and Quade!, on a quarterly basis. The Contractor shall ensure that all documents required by HUD and MHA's Administrative Plan are properly indexed in the file at the time of the MHA review. MHA reviews maybe assisted by audits, compliance reviews, committee oversight, or external consultants as-needed. The contractor must address and correct any deficiencies within a mutually agreed upon timeframe (e.g. 30 days) or a disincentive is applied. Failure to make corrections may endanger the completion of the contract for poor performance.

Performance Indicator	Review	Frequency	Minimum Performance Requirement	Disincentive Performance (if % applicable)
1. Quality Control of Participant Files	QC of HUD- 50058 Form and supporting documentation	Quarterly	80 %-89% Pass Rate	Below 80%
		<i>Disincentive Payment</i>	None	<i>3% of total monthly cost of Admin Component</i>
2. Quality Control of Owner Files	QC of Owner Files and supporting documentation. Eligibility and ongoing enforcement process	Quarterly	95-97% Pass Rate	Below 95%
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>
3. Selection from HCV Wait List	QC of HUD-50058	Quarterly	98% Pass Rate	Below 98%
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>
4. Quality Control of HOS		Quarterly	85-94% Pass Rate	Below 85%
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>

Performance Indicator	Review	Frequency	Min Performance Requirement	Disincentive Performance % Applied
5. HQS Enforcement	QC inspections of a unit with a failed and passed inspection result	Quarterly	98% Pass Rate	Below 98 %
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>
6. HAP Files	QC of HAP process (including rent affordability test)	Quarterly	98% Pass Rate	Below 98%
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>
7. Check Run	QC of check run process (including HAP issuance and collection efforts)	Quarterly	85-90% Pass Rate	Below 85
		<i>Disincentive Payment</i>	None	<i>2% of total monthly cost of Admin Component</i>
8. Portability	QC of HUD-50058 & 52665 Forms and Supporting documentation: Portability process (including timely and accurate HAP issuance)	Quarterly	80-89% Pass Rate	Below 80%
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>
9. Case Follow-up and resolutions	Timely and accurately follow-up resolutions of assigned cases	Quarterly	90-95% Pass Rate	Below 90%
		<i>Disincentive Payment</i>	None	<i>1% of total monthly cost of Admin Component</i>

Performance Indicator	Review	Frequency	Min Performance Requirement	Disincentive Performance % Applied
10. 5EMAP High Performer	QC review of HUD SEMAP requirements	Annual	Standard performer	Troubled Performer Status
		<i>Disincentive Payment</i>	None	TBD
11. Customer Service Survey		Annual at the beginning of the second year of contract	TBD	TBD

Exhibit B - Expense Service Level Agreement

MEMPHIS HOUSING AUTHORITY and Contractor Contract Exhibit B
HCV Program Expense Service Level Agreement

EXPENSE DESCRIPTION	MEMPHIS HOUSING AUTHORITY	CONTRACTOR CONSULTING AND TRAINING, LLC
A share of personnel costs (indirect personnel) for permanent and part-time staff assigned to the COCC. Indirect personnel costs include gross salary, federal and state payroll taxes and all employee benefits	MHA is responsible for these expenses for its COCC staff.	Contractor does not have COCC staff and is not responsible for these costs. Expenses for Contractor personnel specifically providing corporate oversight will be included.
Establishment, maintenance and control of an accounting system adequate to carry out accounting supervision responsibilities over the HCV Program	MHA is responsible for these costs.	Contractor is not responsible for MHA's HCV or other accounting system costs.
General maintenance of HCV books and records (general ledger, accounts payable and receivable, payroll etc.)	MHA is responsible for these costs that are not otherwise in the normal scope of work performed by contractor HCV Finance Specialist(s) staff.	The cost of Contractor's Finance Specialist(s) staff who performs some HCV-related accounting functions, is included.
Supervision by COCC management staff of overall HCV Program operations.	MHA is responsible for these expenses for its COCC staff.	Contractor is not responsible for MHA COCC management staff expenses. As stated above, Contractor's costs for staff oversight are included.
Procurement of supplies, equipment, and contract services for HCV Program activities.	MHA is responsible for expenses for its procurement some of which will be HCV-related.	Contractor is responsible for expenses for its HCV procurement functions which are assigned to and performed by staff.
Preparation of monitoring reports for internal staff and external reporting to HUD, other governmental agencies, and other interested parties.	MHA is responsible for costs associated with extraordinary report preparation including those requiring data not easily or readily available from a pre-designed system of record report for the HCV program and/or that require multiple stakeholder inputs.	Contractor is responsible for costs associated with ordinary HCV operations.
Preparation, approval, and distribution of HCV Program disbursements other than HAP.	MHA is responsible for this work and these costs.	Contractor is not responsible for this work or the associated costs.
COCC staff training, and ongoing certification related to HCV Program activities.	MHA is responsible for activities and expenses related to its COCC staff training and ongoing certification.	Contractor does not have COCC staff and is not responsible for these activities or these costs.
Travel of COCC staff for training, or supervision related to HCV Program activities.	MHA is responsible for travel costs of its COCC staff training and ongoing certification.	Contractor does not have COCC staff and is not responsible for these activities or these costs.
Attendance of COCC staff at meetings (including travel), with landlords, tenants, HUD, or other interested parties regarding HCV planning, budgeting, and review of general HCV Program activities.	MHA is responsible for costs associated with its COCC staff.	Contractor does not have COCC staff and is not responsible for these costs.
Work with auditors for audit preparation and review.	MHA is responsible for audit prep and review costs that are other than those related to specific HAP and utility payments and VMS reporting that are performed by Contractor's HCV Finance Specialist staff.	The cost of Contractor's Finance Specialist(s) staff who will assist with audit preparation and review related to HAP and utility payments and VMS information, is included.

MEMPHIS HOUSING AUTHORITY and Contractor Contract Exhibit B
HCV Program Expense Service Level Agreement

EXPENSE DESCRIPTION	MEMPHIS HOUSING AUTHORITY	CONTRACTOR CONSULTING AND TRAINING, LLC
Indirect cost allocations imposed on the HCV Program by a higher level of local government.	MHA is responsible for these costs.	Contractor is not responsible for these costs.
Hiring, supervision, and termination of HCV staff.	MHA is not responsible for these costs.	Contractor is responsible for these costs.
Preparation and submission of HCV Program budgets, financial report, and year-end financial reports to HUD and other interested parties.	MHA is responsible for these costs that are not otherwise in the normal scope of work performed by Contractor's HCV Finance Specialist(s) and HCV Director staff.	The cost of Contractor's Finance Specialist(s) and HCV Director staff who will assist with these functions within the normal scope of work is included.
Monitoring and reporting on abandoned property as required by states.	MHA is responsible for these activities and these costs.	Contractor is not responsible for these activities or these costs.
Investment and reporting on HCV proceeds.	MHA is responsible for these activities and these costs.	Contractor is not responsible for these activities or these costs.
Storage of HCV records and adherence to federal and/or state records retention requirements.	MHA is responsible for these costs.	Contractor is not responsible for these costs.
Development and oversight of office furniture, equipment, and vehicle replacement plans.	MHA is responsible for costs such as computer equipment/workstations, inspections handheld computers, telephone desk sets, MIS network, copier, replacement and maintenance service, network printers.	Contractor is responsible for costs such as replacement of existing office furniture, replacement of fax machines and replacement of local printers.
Insurance costs for fidelity or crime and dishonesty coverage for COCC employees based on a reasonable allocation method.	MHA is responsible for costs for COCC employees.	Contractor does not have COCC staff and is not responsible for these costs.
The costs of board member stipends and on-training travel.	MHA is responsible for these costs.	Contractor is not responsible for these costs.
The costs of board member trainings that exceed HUD standards.	MHA is responsible for these costs.	Contractor is not responsible for these activities or these costs.
Actual costs for direct personnel permanent and part-time staff, assigned directly to the HCV Program. Direct personnel costs include gross salary, federal and state payroll taxes, and employee benefits.	MHA will not incur any such costs and will not directly pay these costs.	Contractor is responsible for these costs for all its on-site employees and other performing direct program work.
Travel and training for personnel assigned directly to the HCV Program.	MHA will not incur any such costs and will not directly pay these costs.	Contractor is responsible for these costs for Contractor employees.

MEMPHIS HOUSING AUTHORITY and Contractor Contract Exhibit B
HCV Program Expense Service Level Agreement

EXPENSE DESCRIPTION	MEMPHIS HOUSING AUTHORITY	CONTRACTOR CONSULTING AND TRAINING, LLC
Preparation, approval, and distribution of HCV Program HAP disbursements.	MHA is responsible for costs associated with securing checks and bank accounts associated with HAP disbursements.	Contractor is responsible for the costs of the HCV Finance Specialist(s) staff who prepares HAP and Utility payments and completes internal financial data.
Legal fees directly related to the operations and management of the HCV Program, including tenant and landlord enforcement actions, and other HCV Program related matters.	MHA is responsible for these costs.	Contractor is responsible for its legal representation on program issues only when specifically named in a claim or dispute. If the contractor (Contractor) is representing MHA, when MHA is named in a complaint, then MHA is responsible for legal representation and expenses. (see RFP Misc. Info. 2nd bullet from bottom of first page)
The cost of obtaining and receiving background reports on tenants, verification of landlord ownership, and other checks related to tenant and landlord selection and participating in the program.	MHA is responsible for all of these costs including fingerprinting when the background process necessitates.	Contractor is not responsible to pay these costs.
All bank charges related to the HCV Program.	MHA is responsible for these costs.	Contractor is only responsible to pay Contractor corporate bank charges - not HCV program bank charges.
Costs of telephone, including basic services, directory listings, and long distance charges related to direct delivery of the HCV Program.	MHA is responsible for all of these costs.	Contractor is not responsible to pay these costs. Contractor is responsible to pay for cell phones it contracts for and issues to its employees.
All advertising costs related specifically to the operations of the HCV Program to include, but not limited to, advertising for applicants, landlords, and employees in newspapers, newsletters, radio, cable TV, and telephone books.	MHA will not incur any such costs and will not directly pay ordinary costs. MHA is responsible for any extraordinary costs it incurs.	Contractor is responsible for ordinary costs within the scope of work.
Postage and delivery costs for HAP checks, disbursements, and other mailing required to support the activities of the HCV Program.	MHA is not responsible for mail and delivery costs related to HAP and Utility payments for the HCV program. MHA is responsible for other mailing costs required that are extraordinary and/or outside of the scope of work.	Contractor is not responsible for costs associated with MHA staff who process agency mail. Contractor is responsible for the costs of delivery of HAP checks or utility payments, other postage, postage meter, and delivery costs within the scope of work. Contractor is responsible for the cost of purchasing HAP check stock and printer cartridges for the HAP check printer.
HCV office furniture, equipment, computers, and vehicles.	MHA is responsible for some costs such as computer equipment/workstations, inspections handheld computers, telephone desk sets, MIS network, copier, replacement and maintenance service, network printers.	Contractor is responsible for some costs such as replacement of existing office furniture, fax machines and local printers.
Service agreements and warranties to support HCV office furniture, equipment, computers, and vehicles.	MHA is responsible for these costs for existing office furniture, and other equipment and computers MHA has agreed to provide.	Contractor is responsible for these costs associated with any new office furniture, new printers, or new fax machines it purchases on behalf of the HCV program.
Insurance costs related to auto coverage for HCV vehicles and other equipment and assets of the HCV Program.	MHA is responsible for these costs. There are no HCV vehicles.	Contractor is responsible for equipment and assets of the HCV Program that Contractor purchases.
Insurance costs for fidelity or crime and dishonesty coverage for employees as required based on a reasonable allocation method.	MHA is responsible for these costs for its employees.	Contractor is responsible for these costs for Contractor HCV staff.

MEMPHIS HOUSING AUTHORITY and Contractor Contract Exhibit B
HCV Program Expense Service Level Agreement

EXPENSE DESCRIPTION	MEMPHIS HOUSING AUTHORITY	CONTRACTOR CONSULTING AND TRAINING, LLC
Direct costs of collection activities related to fraud recovery. (Regulations allow the direct costs of fraud recovery to be offset against fraud collections. Indirect costs of fraud collection activities may not be offset against fraud collections.)	MHA is responsible for costs that exceed Contractor's responsibilities for the normal scope of work activities. (described to the right)	Contractor is responsible for these costs within the normal scope of work (e.g. entering into and monitoring repayment agreements), and expects the direct costs to be offset against fraud collections. Any other fraud recovery collection activity costs instituted by MHA, are not Contractor costs.
Costs of preparing and maintaining tenant and landlord files and processing tenant applications, determining eligibility, tenant rent, tenant certifications, tenant re-certifications, and unit inspections.	MHA will not incur any such costs and will not directly pay ordinary costs. MHA is responsible for any extraordinary costs it incurs. MHA agrees to provide at least two slots for access to ACCENT, the Dept. of Health and Human Services, data system. There is no cost to MHA for this service and there will be no cost to Contractor for use of the service through MHA.	Contractor is responsible for these costs including establishing its own Work Number account, within the normal scope of work.
Public relation expenses related to maintain positive relationships between the local community, landlords, and tenants.	MHA is responsible for costs for any extraordinary agency mandates.	Contractor is responsible for costs associated with normal day to day operations within the scope of work.
Professional service contracts related to direct services performed for the HCV Program.	MHA is responsible for costs procured and incurred by MHA.	Contractor is only responsible for costs it procures or incurs in accordance with our proposal for administration of the HCV program.
Board member training and related expenses up to a limited amount, as provided by HUD.	MHA is responsible for these costs.	Contractor is not responsible for these costs.