



**REQUEST FOR PROPOSAL**  
**RFP HC2020-09**  
**INTERIOR PAINTING SERVICES**

**Indefinite Delivery Indefinite Quantity**

**PREPARED BY:**  
**Housing Connect**

3595 South Main Street  
Salt Lake City, UT 84115

**Emily Whittle**  
**Purchasing Agent**

**ISSUED**

**August 13, 2020**

Small, Minority and Women Owned Businesses Are Encouraged To Apply

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## EXHIBITS:

- A. Scope of work
- B. Contact information form
- C. Proposal form

## ATTACHMENTS

- I. Terms and conditions for professional services
- II. Form HUD-5369-B, instructions to Offerors- Non-Construction
- III. Form HUD-5369-C, Certifications and Representations of Offerors-Non-Construction Contract
- IV. Certification Regarding Debarment or Suspension
- V. Fact Sheet #66: The Davis Bacon and Related Acts (DBRA)
- VI. Davis Bacon Wage Determinations
- VII. Section 3 FAQ
- VIII. Section 3 Clause and Section 3 Statement HUD 24 CFR PART 135

## INTRODUCTION

Housing Connect (HC) is inviting independent contractors and/or professional firms to submit proposals for interior painting services.

All contractors and/or professional firms must submit verification of coverage for \$ 1,000,000 General Liability and Workmen's Compensation coverage with HC designated as loss payee for said project prior to the award of Contract. All contractors must be in compliance with Davis Bacon Labor Standards. Contractors will furnish a minimum of three past business references.

All materials and labor will be the responsibility of the contractor. Contractor will be responsible for securing any and all required permits. All sites will be maintained in a business like order. All areas outside the work area will be kept free of debris or trash. Work areas will be maintained in a presentable, safe and secure manner.

Any work required outside the original scope of work must be clearly defined, and submitted in writing by a HC representative prior to changes being made. Any change orders submitted and approved will be an addendum to the original Contract and payments will be made accordingly. Any change orders not approved and signed by a HC representative will be at the contractor's expense.

It is anticipated that this RFP will result in multiple **Indefinite Delivery Indefinite Quantity (IDIQ) Contracts** awarded. Provided the proposals are reasonable and in the best interest of the Housing Authority, and the Contractor has and or/will comply with all applicable local, state and federal laws and requirements.

We value our vendors and contractors as partners in our mission to empower all Individuals and families in need to achieve an enriched quality of life by providing housing opportunities and resources throughout Salt Lake County, by the U.S. Department of Housing and Urban Development (HUD).

Housing Connect (HC) hereby requests proposals from qualified professional firms to perform Painting Services (hereinafter, "Services") A more detailed scope of work is provided in **Exhibit A** of this Request for Proposal (RFP).

Evaluation and awards will be made to the proposer(s) who best meet the needs of Housing Connect.

## PROPOSAL TIMELINE

Release of RFP	8/13/2020
Question Due	8/20/2020 @ 12PM MST
Answers to Questions	8/26/2020 @ 12PM MST
Proposals Due	9/14/2020 @ 12PM MST
Evaluation Process	9/14/2020 – 9/16/2020
Award of Contract	9/20/2020

## PURPOSE

The purpose of this Request for Proposals is to solicit responses from qualified companies to furnish interior painting services to HC as identified in the "Scope of Work" of this request.

## SCOPE OF SERVICES

Respondents will be expected to provide Interior Painting Services as outlined in the attached Exhibit A-Scope of Work that has been provided.

## RFP INSTRUCTIONS

### a. Contact Information

This RFP is being issued, as will any addenda by HC. The Contact person for HC is:

Emily Whittle, Purchasing Agent  
3595 South Main Street  
Salt Lake City, UT 84115  
[ewhittle@housingconnect.org](mailto:ewhittle@housingconnect.org)

### b. RFP Submission and Format

The Request for Proposal (RFP) package will be available electronically on Thursday, August 13, 2020 through Monday September 14, 2020 on Housing Connect's website. ***Due to the COVID-19 all submittals will be electronic and need to be sent to the Purchasing Agent Emily Whittle by 12:00 PM MST on September 14, 2020.*** An email confirmation will be sent to notify the proposer that their proposal has been received

The Housing Connect reserves the right to reject any or all proposals. Housing Connect is an equal opportunity employer and contracting agency.

1. Proposals must be submitted by e-mail, Any general information not specifically relevant to the proposal shall be omitted or bound in a separate document. At a minimum, the proposal shall include the following:
  - Identification of the company or individual(s) including name, address, telephone number, fax number, and email address;
  - Name, title, address and telephone number of contact person during the period of the evaluation process;
2. Proposal shall be submitted to:

Housing Connect  
Procurement Department  
Attn: Emily Whittle  
3595 South Main Street  
Salt Lake City, UT 84115  
[ewhittle@housingconnect.org](mailto:ewhittle@housingconnect.org)  
Phone 801-284-4446

Your e-mail response shall include the following notation on the bottom left hand corner of the proposal, **"Request for Proposal for Painting Services Enclosed."** The proposals will be evaluated based on the criteria established in this document. Proposals received after the specified date and time will not be accepted. Two or more companies may be selected for an interview.

### c. Board and Staff Communications

Under no circumstances may any member of Housing Connect or any staff member other than the contact specified above be contacted during this RFP process by any entity intending to submit a response to this RFP. Failure to comply with this request will result in disqualification. All questions should be in writing and directed to the individual identified above.

### d. Proprietary Information

If a respondent does not desire certain proprietary information in their response disclosed, the respondent is required to identify all propriety information in the response, which identification shall be submitted concurrently with the response. If the respondent fails to identify proprietary information, it agrees by submission of its response that those sections shall be deemed nonproprietary and may be made available upon public request after a contract award.

### **Housing Connect Reserves the Right to:**

1. Request an oral interview with, and additional information from, companies prior to final selection of a provider. (NOTE-If an oral interview is requested, respondent will be given at least three (3) business days' notice, along with the date, time and place for the interviews. Expenses will be the responsibility of the respondent.)
2. Consider information about a company in addition to the information submitted in the response or interview.
3. Reject any and all responses, to waive any informalities to the solicitation process, or to terminate the solicitation process at any time if deemed by HC to be in its best interest.
4. Determine the days, hours and locations that the successful bidder shall provide the items or services called in for this solicitation.
5. Reject and not consider any bid that does not, in the opinion of HC, meet the requirements of this solicitation, including but not necessarily limited to incomplete bids and/or bids offering alternate (not including "or equal" items) or non-requested items or services.
6. To make an award to the same bidder (aggregate) for all items; or,
7. To make an award to multiple bidders (including joint venture proposals) for the same or different items.
8. To select a respondent(s) for specific purposes or for any combination of specific purposes, or,
9. To defer the selection and award of any respondent(s) to a time of HC's choosing.

### **SUBMISSION REQUIREMENTS**

Proposals shall be considered from responsible organizations or individuals engaged in the performance of Painting Services. Proposals must include information on competency in performing comparable Painting Services, demonstration of acceptable financial resources, and personnel staffing. The Respondent shall furnish detailed information on references, as well as background and experience with projects of a similar type and scope to include as a minimum:

- a. A general description of the Respondent including the nature of the business or organization, a brief summary of its history, its size and organizational structure. The description should include an identification of any subcontractors proposed to be used by Respondent and their expertise.
- b. The name, title(s) and contact information for the individual(s) authorized to negotiate and contractually bind Respondent. Proposals MUST be signed by an official authorized to contractually bind the Respondent.
- c. The name, title(s) and contact information for the individual(s) who may be contacted by HC for purposes of clarification or the provision of additional information as necessary.
- d. The name, title(s) and contact information for the individual(s) to be assigned to work with HC, including their current position with the organization. Housing Connect reserves the right at any time to request Contractor to remove and/or replace any assigned staff from Housing Connect properties.
- e. Examples of three (3) residential projects sites Respondent is currently working on, or has worked on in the past five years, that best demonstrate Respondent's ability to provide the requested services. These descriptions should include a description of the project, the time frame over which services were performed, and a client reference including full contact information.

### **RFP REQUIREMENTS AND CONDITIONS**

#### **Minimum Requirements**

This RFP sets forth the minimum requirements that all submissions shall meet. Failure to submit proposals in accordance with this request may render the proposal unacceptable.

#### **Cost of the Proposal**

Costs incurred by any proposer in the preparation of its response to the RFP are the responsibility of the proposer and will not be reimbursed by the HC. Proposers shall not include any such expenses as part of their proposals.

#### **Submission Requirements**

Forms included within this Request for Proposal must be included with proposal. HUD form 5369-B and 5369-C. Failure to submit mandatory forms could result in rejection of the company's proposal.

**Clarification to Proposals**

Housing Connect reserves the right to obtain clarifications of any point in a company's proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a proposer to respond to such a request for additional information or clarification could result in rejection of the company's response or responses.

**Cancellation of the RFP**

Housing Connect reserves the right to cancel this RFP at any time, for any reason, and without liability if cancellation is deemed to be in the best interest of HC. The proposer assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

**Collusion**

Proposer, by submitting a proposal, hereby certifies that no officer, agent, or employee of Housing Connect has a pecuniary interest in this Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind with any other proposer; and that the proposer is competing solely in its own behalf without connection with, or obligation to any undisclosed person or company.

**INSURANCE REQUIREMENTS**

**Proof of Insurance**, shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract. The Contractor shall require all subcontractors used in the performance of this contract to name Housing Connect as an additional insured. Following are the standard types and minimum amounts.

**Commercial General Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence.

**Comprehensive Automobile Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence

**Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate **OR**,

**Professional Liability:** \$1,000,000; per occurrence and aggregate.

**Workers' Compensation:** statutory limits

Failure to provide proof of insurance or failure to maintain insurance as required in this bid, or by law; are grounds for immediate termination of the contract. In addition, the awarded bidder should be liable for all procurement costs and any other remedies under law. The Contractor shall provide a certification of Liability Insurance and Workers Compensation.

**Indemnification**

The Contractor agrees to indemnify, defend and hold harmless HC and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by HC on account of any claim therefore, except where such indemnification is prohibited by law.

**SUSPENSION/DEBARMENT**

The Contractor shall provide a certification statement that the firm is not debarred, suspended, or otherwise prohibited from professional practice by any Federal, State, or Local agency.

**Contract Conditions****Americans with Disabilities Act**

Proposer must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes.

**Law of the State of Utah**

The resulting contract will be entered into within the State of Utah and the law of said state, whether substantive or procedural, shall apply to the contract, and all statutory, charter and ordinance provisions that is applicable to public contracts within the County of Salt Lake and the State of Utah shall be followed with respect to the contract.

**Submission of Qualifications**

Any party interested in being considered for award must submit a proposal package in response to this RFP in accordance with the instructions and terms hereunder. By submitting a response, the Offeror agrees to be bound by all terms and conditions of this RFP. Offeror's are expected to examine **ALL** elements of the RFP prior to preparing their response. Failure to do so will be at the Offeror's risk.

Offers for services other than those specified may not be considered. All costs incurred, directly or indirectly, by the Offeror in response to this RFP shall be the sole responsibility of the Offeror and shall be accepted by the Offeror.

Due to the COVID-19, the original qualification package will be emailed to the Purchasing Agent and should contain a manual original signature of an authorized representative of the Offeror. All corrections made on the qualification package must be initialed by the authorized representative of the Offeror. The company name must appear on the cover sheet. The qualification package must include all documents, materials and information required herein. Any omission of information by the Offeror is at the Offeror's own risk, as the Evaluation panel will only consider information submitted in the proposal package on or before the submission deadline.

It is essential that the offeror selected for the Painting Services to have the necessary knowledge, skills and experience to implement all aspects of the work. All work is to be performed with the highest degree of professional standards, in compliance with all applicable laws, regulations, procedures, criteria and requirements; to include all applicable Federal, State, and local laws and regulations.

**Interested Proposers Must Respond With**

- a. Detailed description of how proposed services will be provided.
- b. Listing of deliverables that the Housing Authority will receive.
- c. Proposal demonstrating an understanding of the required services of the Housing Authority, meeting regularly recognized HUD policies, guidelines, and procedures governing the administration of a Public Housing Authority.
- d. Provide written evidence of the firm's ability to perform the services, including any industry accreditations.
- e. Summary profiles of the firm's principals, staff, and associates, including any certifications.
- f. Fixed price cost estimate to provide the proposed services.

The Housing Authority will accept one emailed proposal until 12:00 p.m. Mountain Standard Time on Monday, September 14, 2020.

## EVALUATION CRITERIA

Proposals will be evaluated based on the selection factors listed below; the relative weight that each factor will receive in the evaluation is shown below.

**A. Specific and Recent Painting Experience. ( 30 Points)**

This criterion considers the Experience of both the firm(s) and the individual(s) proposed to be assigned to the project in successfully completing similar projects.

**B. Scope and quality of the services. (30 Points)**

This criterion considers the extent to which the proposed services meet the Housing Authority's objectives, targets and defined Scope; Distinctiveness and overall quality of the Proposal.

**C. Proposed Cost. (20 Points)**

This criterion considers the Offerors proposed cost and the benefit to the Housing Authority Financially.

**D. Thorough, Relevant and Organized Responsiveness to the RFP. (10 Points)**

This criterion considers the thoroughness and quality of the proposal, including completeness of response to the RFP.

**E. Section 3 Compliance. (10 Points)**

This criterion considers how your firm will meet the requirements of Section 3.

### Payment of consultant/contractor fees

Upon execution of the contract, contractor shall submit itemized invoices to Housing Connect on a monthly basis. Contractor's invoices shall be processed and payment made to the contractor in accordance with the policy and procedure of the Agency.

### Award of contract

A committee of staff will evaluate the proposals that are received. All proposals will be evaluated on evaluation criteria and factors for awards previously stated above. A contract will be issued for one year with the option to renew for four additional one year periods.

### Attachments

- IX. Terms and conditions for professional services
- X. Form HUD-5369-B, instructions to Offerors- Non-Construction
- XI. Form HUD-5369-C, Certifications and Representations of Offerors-Non-Construction Contract
- XII. Certification Regarding Debarment or Suspension
- XIII. Fact Sheet #66: The Davis Bacon and Related Acts (DBRA)
- XIV. Davis Bacon Requirements
- XV. Section 3 FAQ
- XVI. Section 3 Clause and Section 3 Statement HUD CFR PART 135

The Housing Authority reserves the right to reject any or all proposals, to waive any informality in proposals, and, unless otherwise specified by Housing Connect or proposer, to accept any items in the proposal. Low bid does not constitute award of contract. Painting Services will be conducted in accordance with 24 CFR 85.36.

**Proposals received in the Procurement office after 12:00 p.m. Mountain Standard Time on Monday, September 14, 2020, will not be considered. It is the sole responsibility of the offeror to ensure that its proposal reaches the Procurement office by the designated date and hour.** The official time used in the receipt of proposals is that time stamped by Housing Connect.



Any changes to this proposal document will be issued as addenda, and will be on file in procurement until proposals are opened. All such addenda will become part of the contract and all Offerors will be bound by such addenda, whether or not received by the Offeror.

In compliance with this Request for Proposals, and subject to all conditions thereof, the undersigned offers, if this proposal is accepted within ninety (90) calendar days from the date of the opening, to furnish any or all of the items and/or services upon which prices are quoted, at the price set opposite each item or negotiated, to be delivered at the time and place specified herein.

The undersigned certifies he/she has read, understands, and agrees to all terms, conditions, and requirements of this proposal, and is authorized to contract on behalf of the firm named below.

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

Federal Tax ID: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax Number: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

# **EXHIBIT A**

## **INTERIOR PAINTING SERVICES**

### **Scope of Work**

Housing Connect (HC) is inviting independent contractors and/or professional firms to submit proposals for painting services.

All contractors and/or professional firms must submit verification of coverage for \$ 1,000,000 General Liability and Workmen's Compensation coverage with Housing Connect designated as loss payee for said project prior to the award of Contract. All contractors must be in compliance with Davis Bacon Labor Standards. Contractors will furnish a minimum of three past business references.

All materials and labor will be the responsibility of the contractor. Contractor will be responsible for securing any and all required permits. All sites will be maintained in a business like order. All areas outside the work area will be kept free of debris or trash. Work areas will be maintained in a presentable, safe and secure manner.

Any work required outside the original scope of work must be clearly defined, and submitted in writing by a HC representative prior to changes being made. Any change orders submitted and approved will be an addendum to the original Contract and payments will be made accordingly. Any change orders not approved and signed by a HC representative will be at the contractor's expense.

Painting shall always include proper preparation and clean up. Preparation shall include removal of electrical cover plates and masking off switches and receptacles. Remove any nails left in place and fill all holes. All appliances, cabinets, bathroom fixtures, ceiling fans and/or lights will need to be covered prior to painting. Paint will cover both sides of all entry doors, interior doors, shed doors, walls, ceilings, shelves, closets, window sills when applicable and baseboards. Any repairs to the drywall that goes beyond filling in small holes and nail holes shall be reviewed by the Property Manager and a separate quote for the repairs will be needed. The separate quote will be approved or denied by the Property Manager. All exterior doors shall be painted with an exterior rated paint. The base of all walls and the inside of window sills shall be cleared of debris before painting. All painting shall be performed until 100% coverage is achieved. If texture is needed it should match the existing as close as possible. Paint needs to be semi gloss white and pastel base which is manufactured by PPG. The paint is an interior latex. The product is Speedhide 6-500 Interior Paint, the color is off white 2.0 the color code is 943706000000402, or comparable.

All surfaces to be painted must be properly cleaned prior to painting. All smoke, grease, dirt, and mold shall be cleaned before painting. If painted surfaces are not properly cleaned prior to painting it will be the prerogative of HC to require cleaning and repaint at no additional charge to HC.

Caulking of all casing, base, joints, seams and anywhere drywall meets windows, sinks, counters, tubs and showers is required. All doors, windows and panel boxes shall open and close in their normal operating function. Any items inoperable due to paint will be repaired by the contractor at no charge to HC. Clean up of all overspray and other residue left from painting shall be performed by the contractor. Floors shall be swept and cleared of all debris and trash. No runs, sags or other imperfections in work will be allowed. Payment for service will not be approved until the job is accepted by the Property Manager.

Contractor shall be required to follow Utah State law on VOC regulations. Click or paste the link below into your browser for more information: <https://documents.deq.utah.gov/air-quality/fact-sheets/DAQ-2018-001502.pdf>

Contractor shall adhere to appropriate work hours. Work shall begin no earlier than 7:00 am and end no later than 8:00 pm. Exceptions will require authorization from the respective building's Property Manager and will be considered on a case by case basis.

## EXHIBIT B

### Contact Information Form

To: Emily Whittle, Procurement Dept.

(801) 284-4446, e-mail [ewhittle@housingconnect.org](mailto:ewhittle@housingconnect.org)

This document is to acknowledge that we are in receipt of your RFP for Painting Services and have noted our intention to bid.

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

Address: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### I PLAN TO SUBMIT A BID.

- ☐ Yes, I will be submitting a bid.
- ☐ Maybe, I need to research and get more information (contact HACSL-information listed above)

**NO BID.** Indicate *any* of the following. We:

- ☐ Do NOT desire to be retained on the vendor list.
- ☐ Desire to be retained on the vendor list, but decline to bid based on the following:
- ☐ Cannot comply with specifications/scope of work, Explain:

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

- ☐ Cannot meet delivery requirements, Explain:

\_\_\_\_\_

- ☐ Do not regularly provide this type of product/service
- ☐ Other, Explain: \_\_\_\_\_
- ☐ Please update my information as listed above.

**HOW YOU FOUND OUT ABOUT THE BID.** Indicate *any* of the following. We:

- ☐ Checked the agency website
- ☐ Received notice by fax or e-mail
- ☐ Newspaper Ad, please list paper:
- ☐ Trade Publication, please list:
- ☐ Plan Room, please list:
- ☐ Other, Explain: \_\_\_\_\_

**EXHIBIT C**  
**PROPOSAL FORM**

Proposal:

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

To: Housing Connect  
3595 South Main Street  
Salt Lake City. UT 84115

1. The undersigned, having familiarized themselves with the local conditions affecting the cost of the work, and with the Specifications, if any thereto, hereby proposes to furnish all labor, materials, equipment and services required to provide such service(s) described in the scope of work in accordance therewith, for the sum of:

Description	Price	Notes
Price per square foot for areas that do not have carpet		
Price per square foot for areas that are carpeted		

2. By submitting a bid, the bidder is agreeing to abide by all terms and conditions listed herein, including those terms and conditions within HUD Handbook 7460.8 Rev. 2, Procurement Handbook for Public Housing Agencies, dated 2/2007 and HUD Table 5.1, Mandatory Contract Clauses for Small Purchases Other than Construction, and if attached, HUD 5370 EZ, Davis Bacon or HUD Wage Decision.
3. In submitting this proposal it is understood that the right is reserved by Housing Connect to reject any and all proposals. If written notice of the acceptance of this proposal is mailed, telegraphed, faxed, or delivered to the undersigned within thirty (30) days after the opening thereof, or at any time thereafter before this proposal is withdrawn, the undersigned agrees to a contract/agreement in the prescribed form and furnish any required insurance requirements within ten (10) days after the contract is presented to him for signature.

**NOTE: The penalty for making false statements in offers is  
Prescribed in 18 U.S.C. 1001.**

**Date**

**Company Name**

**Official Address**

**Telephone Number**

**Title**

**Signature**

## **ATTACHMENT I – Terms and Conditions for Professional Services**

Document on following page

**HOUSING AUTHORITY OF THE COUNTY OF SALT LAKE dba HOUSING CONNECT  
TERMS AND CONDITIONS  
FOR PROFESSIONAL SERVICES**

- 1. AUTHORITY:** Provisions of this contract ("Contract") are pursuant to the authority set forth in 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments, April 1, 2006 and 63G-6, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the Housing Authority to purchase certain specified services, and other approved purchases for the Housing Authority.
- 2. CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this Contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 3. LAWS AND REGULATIONS:** The person or entity contracting with the Housing Authority under this Contract ("Contractor") and any and all supplies, services, equipment, and construction furnished under this Contract will comply fully with all applicable Federal, and State, and local laws, codes, rules, regulations, and ordinances, including applicable licensure and certification requirements.
- 4. RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of, all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract. These records shall be retained by the Contractor for at least four years after the Contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and Housing Authority Agency staff, access to all the records to this Contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
- 5. TIME:** The Contractor shall complete the scope of services work in a manner to achieve any milestones identified in the procurement documents related to this Contract and the attachments to this Contract. The full scope of services work shall be completed by any applicable deadline stated in the solicitation.
- 6. TIME IS OF THE ESSENCE:** For all work and services under this Contract, time is of the essence and Contractor shall be liable for all damages to the Housing Connect and anyone for whom the Housing Connect may be liable, as a result of the failure to timely complete the scope of work required under this Contract.
- 7. PAYMENT:**
  - 7.1 Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. After 60 days from the date a correct invoice is received by the appropriate Housing Authority official, the Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Utah Code Annotated Section 15-6-3. The IRS interest rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue.
  - 7.2 The contract total may be changed only by written amendment executed by authorized personnel of the parties. Unless otherwise stated in the Contract, all payments to the Contractor will be remitted by mail, electronic funds transfer, or the Housing Connect's purchasing card (major credit card).
  - 7.3 The acceptance by the Contractor of final payment without a written protest filed with the Housing Connect within ten (10) working days of receipt of final payment shall release the Housing Connect from all claims and all liability to the Contractor for fees and costs of the performance of the services pursuant to this Contract.
- 8. PROMPT PAYMENT DISCOUNT:** Offeror may quote a prompt payment discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. Contractor shall list Payment Discount Terms on invoices. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date will be the date of acceptance of the merchandise.

- 9. CHANGES IN SCOPE:** Any changes in the scope of the services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by duly authorized representatives of both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of services.
- 10. DOCUMENT OWNERSHIP:** Contractor agrees that any work/services and all Deliverables prepared for State, to the extent to which it is eligible under copyright law in any county, shall be deemed a work made for hire, such that all right, title and interest in the work and Deliverables reside with the State. To the extent any work or Deliverable is deemed not to be, for any reason whatsoever, work made for hire, Contractor agrees to assign and hereby assigns all right, title, and interest, including but not limited to, copyright, patent, trademark, and trade secret, to such work and Deliverables, and all extensions and renewals thereof, to the State. Contractor further agrees to provide all assistance reasonably requested by in the establishment, preservation and enforcement of its rights in such work and deliverables, or subsequent amendments or modifications to such work and deliverables, without any additional compensation to Contractor. Contractor agrees to waive, and hereby, to the extent permissible, waives, all rights relating to such work and deliverables, or subsequent amendments or modifications to such work and deliverables, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use.
- 11. CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify," only applies to contracts issued through a Request for Proposal process, and to sole sources that are included within a Request for Proposal. It does not apply to Invitation to Bids nor to the Multi-Step Process.
- 11.1 Status Verification System**
- (1) Contractor certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Utah Code Ann. Section 63G-12-302.
- (2) The Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Utah Code Ann. Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
- (3) The Housing Connect will not consider a proposal for award, nor will it make any award, where there has not been compliance with this Section.
- (4) Manually or electronically signing the Proposal is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws, including Utah Code Ann. Section 63G-12-302.
- 11.2 Indemnity Clause for Status Verification System**
- Contractor (includes, but is not limited to any Contractor or Consultant) shall protect, indemnify and hold harmless, the and its officers, employees, agents, representatives and anyone that the Housing Connect may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Contractor's subcontractor or subconsultant at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
- 12. CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the Housing Connect, unless disclosure has been made in accordance with Section 67-16-8, Utah Code Annotated, 1953, as amended. Contractor also represents that it has no conflict of interest in performing the services for the Housing Connect under this Contract, unless such conflict of interest has been disclosed to the Housing Connect and approval to proceed, notwithstanding the conflict, has been obtained from the Housing Connect in writing.
- 13. CONTRACTOR AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the Housing Connect to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein

expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and Social Security amounts due as a result of payments received from the Housing Connect for these Contract services. Persons employed by the Housing Connect and acting under the direction of the Housing Connect shall not be deemed to be employees or agents of the Contractor.

- 14. INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the Housing Connect, and all its officers, agents, volunteers, and employees from and against any and all claims, loss, damages, injury, liability, suits, and proceedings arising out of the performance of this Contract which are caused in whole or in part by the acts or negligence of (a) the Contractor, (b) the Contractor's officers, agents, volunteers, or employees, (c) the Contractor's subcontractors or subconsultants at any tier, or (d) anyone for whom Contractor may be liable but not for claims arising from the State's sole negligence. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability for anyone for whom the Contractor is responsible, such Limitations of Liability will not apply to injuries to persons, including death, or to damages to property.
- 15. EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42 USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated December 13, 2006, which prohibits sexual harassment in the work place. Contractor also agrees to abide by any laws and policies of the Housing Authority of the County of Salt Lake regarding any of the above mentioned prohibitions in this paragraph.
- 16. PERFORMANCE EVALUATION:** The Housing Connect may conduct a performance evaluation of the Contractor's services, including specific personnel of the Contractor. References in the Contract to Contractor shall include Contractor, Contractor's subcontractors, or subconsultants at any tier, if any. Results of any evaluation will be made available to the Contractor.
- 17. WAIVERS:** No waiver by the Housing Authority or Contractor of any default shall constitute a waiver of the same default at a later time or of a different default.
- 18. SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal authority, that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- 19. RENEGOTIATION OR MODIFICATIONS:** This Contract may be amended, modified, or supplemented only by written amendment to this Contract, executed by authorized persons of the parties hereto, and attached to the original signed copy of this Contract. Automatic renewals will not apply to this Contract.
- 20. SUSPENSION/DEBARMENT:** The Contractor certifies that neither it nor its principals are presently or have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract), by any governmental department or agency in the United States, including any federal, state or local agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the Housing Authority Purchasing within 30 days if suspended or debarred by any governmental entity during the Contract period.
- 21. TERMINATION:**
- 21.1 Unless otherwise stated in the Additional Terms and Conditions of the Housing Connect, if applicable, this Contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which this Contract may be terminated for cause. This Contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given to the other party. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.



21.2 In the event of such termination, the Contractor shall be compensated for services properly performed under this Contract up to the effective date of the notice of termination. The Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the Housing Authority is limited to full payment for all work properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of the Contractor having to terminate contracts necessarily and appropriately entered into by the Contractor pursuant to this Contract. Contractor further acknowledges that in the event of such termination, all work product, which includes but is not limited to all manuals, forms, contracts, schedules, reports, and any and all documents produced by Contractor under this Contract up to the date of termination are the property of the Housing Authority and shall be promptly delivered to the Housing Authority.

## **22. INSURANCE:**

22.1 To protect against liability, loss and/or expense in connection with the performance of services described under this Contract, the Contractor shall obtain and maintain in force during the entire period of this Contract without interruption, at its own expense, insurance as listed below from insurance companies authorized to do business in the State of Utah.

22.2 The following are minimum coverages that may be supplemented by additional requirements contained in the solicitation for this Contract or provided in an Attachment to this Contract:

- (1) Worker's Compensation Insurance and Employers' Liability Insurance. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction.
- (2) Professional liability insurance in the amount as described in the solicitation for this Contract, if applicable.
- (3) Any other insurance described in the solicitation for this Contract, if applicable.

22.3 Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.

22.4 The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order.

**23. STANDARD OF CARE:** The services of Contractor and its subcontractors and subconsultants at any tier, if any, shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude and complexity of the services that are the subject of this Contract. The Contractor shall be liable to the Housing Connect for claims, liabilities, additional burdens, penalties, damages or third party claims (i.e. another Contractor's claim against the Housing Authority of the County of Salt Lake), to the extent caused by wrongful acts, errors or omissions that do not meet this standard of care.

**24. HOUSING AUTHORITY REVIEWS, LIMITATIONS:** The right of the Housing Authority to perform plan checks, plan reviews, other reviews and/or comment upon the services of the Contractor, as well as any approval by the State, shall not be construed as relieving the Contractor from its professional and legal responsibility for services required under this Contract. No review by the Housing Authority or any entity/user, approval or acceptance, or payment for any of the services required under this Contract shall be construed to operate as a waiver by the Housing Authority of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract, and the Contractor shall be and remain liable to the Housing Authority in accordance with applicable law for all damages to the Housing Authority caused by the wrongful acts, errors and/or omissions of the Contractor or its subcontractors or subconsultants at any tier, if any.

**25. NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the Housing Authority cannot contract for the payment of funds not yet appropriated by the Housing Authority Board of Directors. If the Board of Directors does not appropriate funds for paying the Housing Authority's obligations on this Contract, or if funding to the Housing Authority is reduced, or is required by State law, or if Federal funding is not provided, the Housing Authority may terminate this Contract or proportionately reduce the services and purchase obligations and the amount due from the Housing Authority upon 30 days written notice to Contractor. If this Contract is terminated, or services and purchase

obligations are reduced due to nonappropriation of funds or reduction in funding, as described in the preceding sentence, the Housing Authority will pay Contractor for services properly performed, and will reimburse Contractor for expenses incurred, as authorized under this Contract, through the date of cancellation or reduction, and this payment shall be Contractor's sole remedy, and the Housing Authority will not be liable for any future commitments, penalties, or liquidated damages.

**26. SALES TAX EXEMPTION:** The Housing Connect's sales and use tax exemption number is 11898642-002-STC, located at <http://purchasing.utah.gov/contract/documents/salestaxexemptionformsigned.pdf>. The tangible personal property or services being purchased are being paid from Housing Authority funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the Contract.

**27. PUBLIC INFORMATION:** Contractor agrees that this Contract, related sales orders, and invoices shall be public documents, and shall be available for distribution. Contractor gives the Housing Authority express permission to make copies of this Contract, related sales orders, and invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by the Housing Connect Purchasing, Contractor also agrees that the Contractor's response to the solicitation, if applicable, will be a public document, and copies may be given to the public under GRAMA laws. This permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.

**28. PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this Contract.

**29. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the State.

**30. DEFAULT AND REMEDIES:**

30.1 Any of the following events will constitute cause for the Housing Authority to declare Contractor in default of this Contract:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this Contract.

30.2 Should Contractor be in default under any of the provisions under Subsection 30.1 above, the Housing Authority will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the Housing Authority may do one or more of the following: (1) Exercise any remedy provided by law; (2) Terminate this Contract and any related contracts or portions thereof; (3) Impose liquidated damages, if liquidated damages are listed in the Contract; or (4) Suspend Contractor from receiving future solicitations.

**31. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Housing Authority may terminate this Contract after determining such delay or default will reasonably prevent successful performance of this Contract.

**32. PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the Housing Connect is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6-1002, Utah Code Annotated, 1953, as amended).

**33. CONFLICT OF TERMS:** In order for any terms and conditions of the Contractor to apply to this Contract, they must be in writing and attached to this Contract. No other terms and conditions of the Contractor will apply to this Contract, including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc.

In the event of any conflict in the terms and conditions in the Contract, the order of precedence shall be: (1) Attachment C: Housing Connect Terms and Conditions; (2) Housing Authority Purchase Order Contract Signature Page(s); (3) Additional Terms and Conditions of the Housing Connect; (4) Terms and Conditions of the Contractor, if any.

**34. ENTIRE CONTRACT:** This Contract including all attachments and documents incorporated hereunder, and the related Housing Authority solicitation documents, if any, constitutes the entire Contract between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Contract shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Contract shall prevail in any dispute between the terms of this Contract and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Contract.

**35. DISPUTE RESOLUTION:** In the event of any dispute under this Contract prior to any filing in any judicial proceedings, the parties agree to participate in good faith in the mediation of the dispute. The State, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of the dispute. If the Housing Authority appoints such an expert or panel, Housing Authority and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.

**ATTACHMENT II – Form HUD-5369-B, Instructions to Offerors-Non-Construction**

Document on following page

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

## 6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

## **7. Contract Award**

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

(b) The HA may

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

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

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

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

## **8. Service of Protest**

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

## **9. Offer Submission**

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

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

[Describe bid or proposal preparation instructions here:]

**ATTACHMENT III – Form HUD-5369-C, Certifications and Representations of Offerors-Non-Construction Contract**

Document on following page

# Certifications and Representations of Offerors

## Non-Construction Contract

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

OMB Approval No: 2577-0180 (exp. 7/30/96)

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.

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Signature & Date:

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Typed or Printed Name:

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Title:

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## **ATTACHMENT IV – Certification Regarding Debarment or Suspension**

Document on following page

### **Certification Regarding Debarment or Suspension**

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all Proposers submitting a response to this RFP:

1. The Proposer certifies, to the best of its knowledge and belief, that neither the Proposer nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or non-procurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Non-procurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Proposer shall provide immediate written notice to the HC Chief Finance Officer (CFO) if, at any time prior to award, the Proposer learns that this certification was erroneous when submitted or has become erroneous by reason of changes circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Proposer rendered an erroneous certification, in addition to other remedies available to the HC government, the HC Chief Finance Officer (CFO) may terminate the contract resulting from this solicitation for default.
5. Proposer affirms that it has no record of recent unsatisfactory performance with HC, during the past twenty-four (24) months at a minimum.

**Printed Name of  
Representative:**

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**Title:**

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**Signature:**

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**Date:**

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## **ATTACHMENT V – Fact Sheet #66: The Davis Bacon and Related Acts (DBRA)**

Document on following page

## Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)

This fact sheet provides general information concerning DBRA.

### Coverage

DBRA requires payment of prevailing wages on federally funded or assisted construction projects.

The [Davis-Bacon Act](#) applies to each federal government or District of Columbia contract in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of [public buildings or public works](#). Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, and insurance are Davis-Bacon “related Acts.” The “related Acts” include provisions that require Davis-Bacon labor standards apply to most federally assisted construction. Examples of “related Acts” include the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

### Basic Provisions/Requirements

Contractors and subcontractors must pay [laborers and mechanics employed](#) directly upon the [site of the work](#) at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination in the contract, for the work performed. [Davis-Bacon labor standards clauses](#) must be included in covered contracts.

The Davis-Bacon “prevailing wage” is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination. The contractor’s obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits. Prevailing wages, including fringe benefits, must be paid on all hours worked on the site of the work.

Apprentices or trainees may be employed at less than the rates listed in the contract wage determination only when they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department.

Contractors and subcontractors are required to pay covered workers weekly and submit weekly certified payroll records to the contracting agency. They are also required to post the applicable Davis-Bacon wage determination with the [Davis-Bacon poster \(WH-1321\)](#) on the job site in a prominent and accessible place where they can be easily seen by the workers.

### Davis-Bacon Wage Determinations

Davis-Bacon wage determinations are published on the Wage Determinations On Line website at <https://beta.SAM.gov> for contracting agencies to incorporate them into covered contracts. The “prevailing wages” are determined based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area. Guidance on determining the type of construction is provided in All Agency Memoranda [Nos. 130](#) and [131](#).

## **Penalties/Sanctions and Appeals**

Contract payments may be withheld in sufficient amounts to satisfy liabilities for underpayment of wages and for liquidated damages for overtime violations under the Contract Work Hours and Safety Standards Act (CWHSSA). In addition, violations of the Davis-Bacon contract clauses may be grounds for contract termination, contractor liability for any resulting costs to the government and debarment from future contracts for a period up to three years.

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge (ALJ). Interested parties may appeal ALJ decisions to the Department's Administrative Review Board. Final Board determinations on violations and debarment may be appealed to and are enforceable through the federal courts.

## **Typical Problems**

(1) Misclassification of laborers and mechanics. (2) Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours). (3) Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day. (4) Failure of to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices. (5) Failure to submit certified payrolls weekly. (6) Failure to post the Davis-Bacon poster and applicable wage determination.

## **Relation to State, Local, and Other Federal Laws**

The [Copeland "Anti-Kickback" Act](#) prohibits contractors from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment, and requires contractors to submit a weekly statement of the wages paid to each employee performing DBRA covered work.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State (and local) laws. Also, overtime work pay requirements under CWHSSA) and the [Fair Labor Standards Act](#) may apply.

Under [Reorganization Plan No. 14 of 1950](#), (5 U.S.C.A. Appendix), the federal contracting or assistance-administering agencies have day-to-day responsibility for administration and enforcement of the Davis-Bacon labor standards provisions and, in order to promote consistent and effective enforcement, the Department of Labor has regulatory and oversight authority, including the authority to investigate compliance.

## **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)

## **ATTACHMENT VI – Davis Bacon Wage Determinations**

Document on following page

"General Decision Number: UT20200085 01/31/2020

Superseded General Decision Number: UT20190085

State: Utah

Construction Type: Building

County: Salt Lake County in Utah.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/03/2020
1	01/31/2020

CARP0801-002 06/29/2019

Rates                      Fringes

CARPENTER (Drywall Hanging



and Metal Stud Installation  
Only).....\$ 26.87 15.12  
-----  
ELEC0354-001 06/01/2019

	Rates	Fringes
ELECTRICIAN (Low Voltage Wiring Only).....	\$ 24.91	1.5%+11.45
ELECTRICIAN.....	\$ 33.99	1.3%+12.50

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\* ELEV0038-003 01/01/2020

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 45.55	35.245

## FOOTNOTE:

a: Vacation Pay: 8% with 5 or more years based on regular hourly rate for all hours worked, 6% under 5 years based on regular hourly rate for all hours worked. b: Paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Friday after Thanksgiving and Christmas Day

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PAIN0077-003 01/01/2013

	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 19.50	6.28

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PAIN0077-004 08/01/2013

	Rates	Fringes
PAINTER (Brush, Roller, and Spray, excluding Drywall/Finisher and Taper).....	\$ 18.25	6.65

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PLUM0140-001 08/01/2019

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 36.85	13.53

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SFUT0669-003 04/01/2019

	Rates	Fringes
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SPRINKLER FITTER (Fire Sprinklers).....	\$ 35.31	20.94
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SHEE0312-002 07/01/2017		

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 33.36	11.36
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SUUT2012-017 07/29/2014		

	Rates	Fringes
CARPENTER (Acoustical Ceiling Installation Only).....	\$ 21.25	2.15
CARPENTER (Form Work Only).....	\$ 16.93	1.93
CARPENTER, Excludes Acoustical Ceiling Installation, Drywall Hanging, Form Work, and Metal Stud Installation.....	\$ 20.66	7.47
CEMENT MASON/CONCRETE FINISHER...	\$ 15.00	0.00
IRONWORKER, STRUCTURAL.....	\$ 20.21	3.22
LABORER: Common or General.....	\$ 13.84	0.00
LABORER: Mason Tender - Brick...	\$ 16.38	1.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 14.94	0.00
LABORER: Pipelayer.....	\$ 13.57	0.00
LABORER: Landscape and Irrigation.....	\$ 9.50	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 14.48	0.00
OPERATOR: Loader.....	\$ 19.34	0.00
PLASTERER.....	\$ 18.36	0.00

ROOFER.....	\$ 13.22	0.00
TILE FINISHER.....	\$ 13.54	0.00
TILE SETTER.....	\$ 23.50	0.00
TRUCK DRIVER: Dump Truck.....	\$ 15.50	0.00

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in

the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor

200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

## **ATTACHMENT VII – Section 3 FAQ**

Document on following page

# Frequently Asked Questions

## About HUD's Section 3 Business Registry

### 1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that preference for employment, training and contracting opportunities generated from the expenditure of certain HUD funds is directed to local low- and very low-income persons, particularly those who receive federal housing assistance, and businesses that are owned by or substantially employ such persons.

### 2. What does the term "Section 3 resident" mean?

A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-Metropolitan County where the Section 3 covered assistance is expended.

### 3. What does the term "Section 3 Business" mean?

Section 3 businesses are those that can provide evidence of meeting one of the following three criteria:

- a) 51 percent or more owned by Section 3 residents; or
- b) At least 30 percent of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire\*; or
- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to businesses that meet the qualifications of a) or b) above.

\*Example: John is a Section 3 resident that is unemployed. He is hired by XYZ Construction Company at a salary of \$37,500 per year. The local low-income limit for a one-person household is \$35,000. John can be counted as a Section 3 resident by XYZ Construction Company for up to three years towards their efforts to meet the Section 3 business criterion under definition "B" as described above.

### 4. How are the terms "low-income" and very low-income determined?

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



**5. What is HUD's Section 3 Business Registry?**

The Section 3 Business Registry is a registry of businesses that have self-certified their status as Section 3 Businesses. Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses. Section 3 residents are also encouraged to use the registry to identify businesses that may have HUD-funded employment opportunities.

**6. How does my firm submit a self-certification application if it meets the definition of a Section 3 Business?**

Businesses can submit an online application for inclusion in the Section 3 registry at: [www.hud.gov/Sec3Biz](http://www.hud.gov/Sec3Biz).

**7. When does a business certification expire?**

A certified business must recertify after 3 years.

**8. Where do I find the database of businesses that have self-certified that they meet the definition of a Section 3 Business?**

To search the database for businesses please visit: [www.hud.gov/Sec3Biz](http://www.hud.gov/Sec3Biz).

**9. What documentation is required from businesses that meet the definition of a Section 3 Business?**

For inclusion in the registry, businesses must submit the online application and are not initially required to submit any additional documentation to HUD. Additional documentation may be requested if HUD receives complaints alleging that any business in its registry has misrepresented their firm's status to the Department. Businesses may also be required to submit supporting documentation as evidence of their eligibility to recipients prior to the award of the HUD-funded contract.

**10. What is a business license?**

A business license is a type of legal authorization to operate a business in a city, county, or state. A license may even be required on a federal level. Typically issued in document form, a business license gives a business owner the right to conduct entrepreneurial activities as set forth in the license application. In most cases, there is a fee charged to obtain a business license. Requirements for a business license vary by state and municipality. Please visit: <http://www.sba.gov/content/search-business-licenses-and-permits> to learn more about obtaining a business license.

**11. Has HUD verified the authenticity of businesses that have submitted self-certification applications and does HUD endorse the quality of services provided by such businesses?**

While the Department maintains the Business Registry database, it has not verified the information submitted by the businesses and does not endorse the services they provide. Accordingly, it is recommended that users perform due diligence before awarding contracts to businesses that have self-certified their status as a Section 3 business.

The Department will periodically conduct random audits of the Section 3 businesses in its registry.

**12. Does being self-certified as a Section 3 Business mean that a firm is automatically entitled to HUD-funded contracts?**

A Section 3 business is not entitled to a contract simply by being listed in the HUD Section 3 Business Registry database. Section 3 businesses may need to demonstrate to the satisfaction of the recipient agency (i.e., Public Housing Authority, local government agency, developer, etc.) that they are a responsible bidder with the ability to perform successfully under the terms and conditions of prospective contracts.

The Section 3 regulation at 24 CFR Part 135.36 provides preference to Section 3 businesses that submit responsible bids for contracts and subcontracts, but does not guarantee the award of contracts.

**13. What if I believe that HUD has accepted the self-certification of a firm that does not meet the definition of a Section 3 Business?**

The Department strongly encourages anyone that believes that a firm in this registry does not meet the eligibility criteria of a Section 3 Business to notify the HUD Office of Inspector General at <http://www.hudoig.gov/report-fraud>. HUD's office of Inspector General is responsible for investigating claims of fraudulence. In such situations, the HUD Office of Inspector General may request documentation and additional information from the business to verify that they qualify for inclusion in the database. Businesses found to have misrepresented themselves will be removed from the database and penalized as appropriate by the HUD Office of Inspector General.

**14. What if my firm is listed on HUD's Section 3 Business Registry and I need to change or update my contact information?**

To change or update your contact information, submit a detailed request via email to: [Sec3biz@hud.gov](mailto:Sec3biz@hud.gov).

**15. Will my business be contacted after it is listed on the Section 3 Business Registry?**

HUD grantees and their developers or contractors may contact your business with bid solicitations for contracts but they are not required to do so. Businesses should proactively

reach out to recipients of Section 3 covered HUD funding in their metropolitan area or Nonmetropolitan County.

**16. How can I find recipients or agencies that are required to provide preferences to Section 3 residents and businesses in my area?**

To find local recipients of Section 3 covered funding, contact your local HUD office. To find your closest office, visit: [www.hud.gov/localoffices](http://www.hud.gov/localoffices).

**17. Are agencies that receive covered HUD funding (i.e., PHAs, cities, states, property owners, and other agencies) required to use this database?**

Recipient agencies that receive Section 3 covered assistance will be informed about the database and encouraged but not required, to contact Section 3 businesses in the registry prior to awarding covered contracts.

**18. Are General Contractors required to use this database?**

General Contractors and other developers that receive contracts from recipient agencies may be informed about the database by local recipients and instructed to contract Section 3 businesses in the registry prior to the award of subcontracts.

**19. How will HUD monitor success under the Section 3 Business Registry Program?**

The Department will survey Section 3 Businesses and recipient agencies to determine outcomes and challenges associated with the implementation of the Section 3 Business Registry. The Department will monitor the usage of the database by businesses and recipients, and other feedback as a part of its assessment.

**20. How do the other business designations affect the eligibility of businesses seeking certification under Section 3?**

MBE, WBE, HubZone and other designations have no bearing on the eligibility of a particular business. The other designations are posted as a convenience for businesses wishing to identify themselves and for those awarding contracts who may have a business need for such designations.

**21. Where can I find more information on the requirements of Section 3?**

For more information on the requirements of Section 3, please visit [www.hud.gov/Section3](http://www.hud.gov/Section3).

**ATTACHMENT VIII – Section 3 Clause and Section 3 Statement  
HUD 24 CFR PART 135**

Document on following page



**SECTION 3 CLAUSE  
AND SECTION 3 STATEMENT**  
HUD 24 CFR PART 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.

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

**SECTION 3 STATEMENT**

Are you claiming Section 3 business preference? **Yes** ☐ **No** ☐

If "YES," check the box indicating which priority you are claiming and attach supporting documentation.

☐ 51% or more owned by Section 3 residents

☐ At least 30% of permanent, full time employees include persons that are currently Section 3 Residents, or were Section 3 residents within three (3) years of the date of first hire

☐ Provide evidence, as required, of a commitment to sub-contract in excess of 25% of the dollar award of all sub-contracts to business concerns that meet one of the first two qualifications above.

More information regarding Section 3 may be obtained from:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3](https://www.hud.gov/program_offices/fair_housing_equal_opp/section3/section3)