

HOUSING AUTHORITY CITY OF ELKHART

1396 BENHAM AVENUE
Office# (574) 295-8392

Fax# (574) 293-6878
www.ehai.org

ELKHART, INDIANA 46516
TTY# (574) 295-9682

**Angelia Washington,
Executive Director**

**DAN BOECHER, Commissioner
KRISTEN SMOLE, Commissioner
LEFATE OWENS, Commissioner
MARGARET OWENS, Commissioner
HELENIA ROBINSON, Commissioner
CYNTHIA BILLINGS, Commissioner**

April 18, 2023

Dear Sir or Madam,

Enclosed please find a copy of a Request for Proposal (RFP) to provide The Housing Authority City of Elkhart (HACE) with General Maintenance/Vacant Unit Preparation Services at our various Development, Properties, and Office Locations. HACE will evaluate the RFP under the competitive proposal method, meaning we will consider both technical costs and qualification factors in awarding the contract(s).

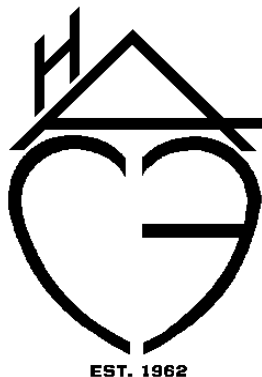
Please review the enclosed documents and submit a proposal for our consideration to:

Housing Authority City of Elkhart
ATTN: Director Comprehensive Improvements
1396 Benham Ave, Elkhart, IN 46516
RE: General Maintenance/Vacant Unit Preparation Services

All proposals for General Maintenance/Vacant Unit Preparation Services must be received by the Housing Authority City of Elkhart no later than 4:00PM (Eastern Time), on **May 19, 2023**. Proposals received or delivered after this date and time will not be considered and will be returned unopened.

Ordering Instructions: The Bid Specifications Package can be accessed from the HACE's website at <https://www.ehai.org/open-public-bids.html> or by calling 574-296-6958. **Contact:** Pre-proposal site visits are available by appointment only and can be arranged by contacting Erik Mathavan, Director of Comprehensive Improvements at 574-296-6958.

Erik Mathavan
Director, Comprehensive Improvements
Enclosure: Request for Proposal – General Maintenance/Vacant Unit Preparation Services



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Request for Proposal

For
General Maintenance/Vacant Unit Preparation Services

Various Properties and Offices
For The

HOUSING AUTHORITY CITY OF ELKHART

RFP 2023-02-UT

Notice: Contact with members of the Housing Authority City of Elkhart (HACE) Board of Commissioners, or HACE officers and employees other than the contact person listed herein, by any prospective Proposer, after publication of the RFP and prior to the execution of a contract with the successful proposer(s) could result in disqualification of your proposal. In fairness to all prospective proposer(s) during the RFP process, if HACE meets in person with anyone representing a potential provider of these services to discuss this RFP other than at the pre-submittal meeting, an addendum will be issued to address all questions so as to ensure no Proposer has a competitive advantage over another. This does not include meetings required to conduct business not related to the RFP, or possible personal presentations after written qualifications have been received and evaluated.

GENERAL INFORMATION

Agency Background Information

The Housing Authority City of Elkhart (HACE) was established in 1962 to provide safe and affordable housing for qualified low-income persons residing in the Elkhart Area. The United States Department of Housing and Urban Development (HUD) as outlined under the United States Housing Act of 1937 and subsequent amendments has direct responsibility for administering low-income housing programs in the United States. The housing authority manages 672 units of conventional housing across (3) high-rise buildings and two (2)

scattered sites all within the city limits of Elkhart, Indiana. The following chart provides a breakdown of unit count by property:

PROPERTY NAME	TYPE	Area in Sq. Ft. (approx.)	UNIT COUNT	FLOORS	Community Address
Washington Gardens	Scattered Sites	83,462	198	2-Story	315 Chapman Ave
Banneker Heights	Scattered Sites	75,318	98	Single	1 Malcolm Dr
Rosedale High Rise	High Rise	80,676	102	6	501 W Indiana Ave
Waterfall High Rise	High Rise	89,100	127	10	303 Waterfall Dr
Riverside High Rise	High Rise	138,290	147	7	181 N Elkhart Ave
Administration Bldg.	Office Building	17,184	N/A	1	1396 Benham Ave

Contract Term

The agreement for General Maintenance/Vacant Unit Preparation Services may be for a contract term basis or on a job by job basis, which may be awarded to one or more proposers with the company(s) that has a qualifying ordinal bid evaluation score on the primary or any alternative grouping. This RFP qualification process will be valid for a total of 5 years before a new Request for Proposal is required.

Attachments

The following attachments are herein incorporated by reference for all purposes as part of this “General Maintenance/Vacant Unit Preparation Services” Proposal Solicitation:

- A. Scope of Work
- B. Proposed Rates
- C. HUD 5369-B
- D. HUD form 5370-C Part 1 and Part 2
- E. HUD Maintenance Wage Rates
- F. Section 3 Plan
- G. Section 3 Compliance & Program Acknowledgement Form
- H. HUD 50070-Certification of Drug Free Workplace
- I. Profile of Firm Form

Format of Bid/Forms to Provide

No contract will be awarded without the following forms being provided:

- Profile of Firm Form as well as proof of Insurance and business license
- Completion of Pricing Sheet/Bid Form
- Section 3 Compliance & Program Acknowledgement Form
- Past Performance
- HUD Forms
- List of at least three (3) references of work completed within the last two (2) years

At the time bids are opened, to be considered responsive, bids *must* contain the following:

- Proof of Insurance
- Pricing Sheet/Bid Form(s)

Conditions

The Housing Authority will not pay any cost incurred in the preparation or submission of any bid or any cost incurred in anticipation of a contract. The Bidder understands that the Executive Director of the Housing Authority shall be the sole authority to legally commit the Housing Authority to any expenditure

of public funds for this procurement, subject to approval by the Board of Commissioners. The Housing Authority reserves the right to reject any and all bids and to waive any informality whenever such rejection or waiver is in the best interest of the Housing Authority. This RFP in no way obligates the Housing Authority to award a contract. Contractor(s) shall have staff, qualified by training and experience, to perform the service required. All persons employed by Contractor(s) in the performance of any work under this Agreement shall be agents and employees of Contractor(s) only. Neither Contractor(s) nor any employees or agents of Contractor(s) shall be deemed as employees of the HACE for any purpose whatsoever. Contractor(s) is responsible for obtaining identification badges on all of his/her employees. Under no circumstances will a crewmember be allowed to work at development site without his/her ID on his/her person at all times. Contractor's personnel shall be neat and conduct all work in a professional manner with minimal disturbance to the Housing Authority. If any of Contractor's personnel are not satisfactory to the Housing Authority, Contractor(s) shall replace such personnel with satisfactory replacements. The Contractor(s) shall coordinate the work with the Housing Authority as much as possible. Regular reports of progress shall be required.

Contractors may appeal only deviations from laws, rules, regulations, or procedures. Disagreement with the evaluators' judgment with the number of points scored is not appealable. The following Appeal Procedure applies to Contractors who wish to appeal a disqualification of Bid or award of contract:

Contractors shall submit a written appeal to the Executive Director at HACE – 1396 Benham Ave, Elkhart, Indiana 46516 RE: APPEALS. Appeals must be received by the Executive Director no later than 4:00PM (local time) on the fifth (5th) business day after the postmarked date of the Notice of Award/Non-Award.

PERMITS, LAWS, AND REGULATIONS

The Contractor(s) will secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of services. A copy of the permit will be made available to HACE upon the contractor's receipt of the permit. Where the Housing Authority chooses to arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor(s), the contract amount shall be reduced accordingly. The Contractor(s) shall observe and comply with all federal, state, county, and city laws, codes, ordinances, rules and regulations in accomplishing the work. The service performed shall be in conformance with and meet all industry standards. The Contractor(s) shall agree that, in a suit and/or claim in mediation or arbitration to enforce the rights and/or obligations of a Contract under this Bid, should the HACE prevail in the prosecution or defense of said suit and/or claim, the HACE shall be entitled to its reasonable attorney's fees, court costs and other reasonable litigation expenses, including, but not limited to, expert fees, costs of exhibits, staff time in the preparation for and/or attendance at trial, investigation expenses, and travel expenses. The Contractor(s) shall agree to indemnify and keep, hold and save harmless the Housing Authority from and against any and all liability, penalty, losses, damages, expenses suits and judgments arising from injuries on Housing Authority property premises during the term of the Contract to persons or property of any nature.

COST OF SERVICES

The contractor(s) shall include in his/her Bid the all-inclusive cost to be charged to the Housing Authority for the provision of General Maintenance as defined on the Scope of Work. It MUST accompany any bid in order for that bid to be responsive. Contractor(s) will provide the required chemicals, supplies, tools, and equipment necessary to fully comply with the Scope of Work listed in Attachment A.

USE OF TOOLS

The contractor shall be required to furnish all tools and machinery including but not limited to router, skill saw, table saw, and other equipment necessary and appropriate for the timely and safe completion of the work in compliance with the day-to-day work activities.

DAMAGE CAUSED BY THE CONTRACTOR

Any damage to an asset owned by the Housing Authority in any way caused by the Contractor or its agents, employees, contractors, visitors, guests or invites, shall be repaired or replaced at the expense of the Contractor. Such damage includes but is not limited to tub cartridges, kitchen cabinets, and windows. In the event of such damage, the Housing Authority shall have the option to make such repairs and/or replacements as are necessary, and any charge, costs, or damages so incurred by the Housing Authority shall be paid by the Contractor.

RESPONSIBILITY FOR SUBCONTRACTORS

All requirements for the “Prime” contractor shall also apply to any and all subcontractors. It is the Prime Contractors’ responsibility to ensure compliance by the subcontractors. Regardless of subcontracting, the Prime Contractor remains liable to HACE for the performance under this RFP or any resulting contract.

The contractor shall perform criminal history checks and drug screening tests on all employees performing work under this RFP and any resulting contract and if requested provide summaries of the results to HACE. Prospective employees whose criminal history check discloses a misdemeanor or felony conviction involving crimes of moral turpitude or harm to persons or property shall not be used to perform work under this RFP or any resulting contract. The contractor is required to perform drug screening of all employees and to ensure acceptable test results. Criminal history and drug screening checks will be completed at the sole expense of the Contractor.

The contractor shall provide at the contractor’s own expense all equipment, labor, cleaning materials, and tools to perform all the services required under this RFP and any resulting contract. If any employee of the Contractor is deemed unacceptable by HACE, the Contractor shall immediately replace such personnel with a substitute acceptable to HACE.

TIME FOR RECEIVING PROPOSALS

All proposals must be received by the Housing Authority City of Elkhart no later than 4:00PM (Eastern Time), on **May 19, 2023**. Proposals received or delivered after this date and time will not be considered and will be returned unopened.

REQUIRED FORMS

All required forms furnished by HACE as a part of the RFP document issued shall, as instructed, be fully completed, and submitted by the proposer. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the proposer must “edit” the form back to its original form (for example, signature lines must appear on the page which the line was originally intended).

HACE intends to retain the successful proposer pursuant to a “Best Value” basis, not a “Low Bid” basis. Therefore, so that HACE can properly evaluate the proposals received, all proposals submitted in response to this RFP should be formatted in accordance with the sequence noted below.

The **Proposal** is to **contain** the various **categories of information** which should be **tabbed, sectioned, or distinctly separated** so that the information submitted can be easily retrieved.

Tab/Section 1, PROFILE OF FIRM FORM, PROOF OF INSURANCE AND BUSINESS LICENSE

Proposers must be able to provide proof of Insurance & Contractors must submit a City of Elkhart Business license. The Profile of Firm Form, a one-page Form must be fully completed, executed, and submitted under this tab as a part of the proposal submittal by the Proposer and each subcontractor. See Attachment I.

Tab/Section 2, BID FORM

These Forms are attached hereto as Attachment B to this RFP document. This one-page Form must be fully completed and submitted under this tab as a part of the proposal submittal. The proposed fee section of this form will be intentionally left blank in the proposal submittals.

Tab/Section 3, SECTION 3 COMPLIANCE AND PROGRAM ACKNOWLEDGEMENT

Proposers are required to read thru the HUD Section 3 program. See Attachment F. Additionally, Proposers are required to agree to the Section 3 compliance and, if desired, submit a business preference concern certification if eligible. See Attachment G.

Tab/Section 4, PAST PERFORMANCE

The Proposer must submit under this section a concise description of its experience, to include:

- a. Firm's experience with similar projects requiring General Maintenance/Unit Turnaround.
- b. Firm's experience in the project(s) of this or greater scope.
- c. Length of time Contractor has been providing the services requested by this RFP.

Tab/Section 5, HUD FORMS

These Forms are attached hereto as Attachments to this RFP document and must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal. See Attachments C, D, and H.

Tab/Section 6, REFERENCES

The proposer shall submit three former or current clients, preferably other than HACE, for whom the proposer has performed similar or like services to those being proposed herein. The list shall, at a minimum, include for each reference:

- The client's name;
- The client's telephone number and address,
- Description of services provided to the client, and
- Date of services

PROPOSED COSTS

BASE COSTS

The housing authority currently has enough work to fill two (2) FTE's (full time equivalents) as part of this proposal. Your proposed fee for each item is inclusive of all necessary costs to provide the proposed services, including, but not limited to: employee costs and benefits (must comply with Attachment E) clerical support; overhead; profit; supplies; materials; licensing; insurance, vehicle fuel, etc. Each fee proposed shall be fully "burdened" with profit and overhead costs. Prices: Your proposed price for each item listed on the Price Sheet shall be inclusive of all expenses incurred to perform the service under this RFP and any resulting contract. Price shall include but not be limited to, employee costs and benefits, clerical support, overhead, profit, supplies, materials, equipment, licensing, insurance, bonding, vehicle fuel, etc. Prices will be utilized to deduct for any work not performed or materials not used.

CAPACITY TO DELIVER SPECIFIED SERVICES

EVALUATION TO PERFORM WORK

As part of this proposal evaluation process, provided the bidding firm has not previously demonstrated the capacity to perform the work requirements, the housing authority may require the bidder to show capacity to deliver specified services. The housing authority will contract the bidding firm to perform hands-on work as part of the evaluation process. The bidding firm will be asked to perform a “unit turnover” on an asset owned by the housing authority. The housing authority will pay the contractor for the work (not to exceed 32 hours) performed at the specified rate on the proposal cost form. The contracting officer of this proposal will coordinate with the bidding firm to set up an appointment for this evaluation work to transpire.

PROPOSAL OPENING RESULTS

It is understood by all proposers/prospective proposers that the proposals are privately opened, and the results will be recorded internally. When HACE has concluded all evaluations, has chosen a final top-rated proposer, has completed the award and is ready to issue such results, HACE shall notify all proposers.

All proposal documents submitted by the proposers are generally a matter of public record unless information is deemed to be proprietary.

AWARD OF CONTRACT

The Housing Authority reserves the right to reject any or all bids and to waive any minor informalities or irregularities in bids received. The contract shall initially be awarded to the highest scored RFP by a responsible Bidder whose Bid conforms to the RFP and to the specifications described herein, and whose product or service best suits the needs of the HACE. The Contractor shall perform services, as specified herein, on “as needed” basis at various HACE Properties per the included scope of work.

Contractor shall comply with all applicable federal, state and local laws regarding no smoking on HACE properties.

Proposal Prices: Proposers are advised that the Proposal Fee shall be all inclusive and fully burdened by proposer to accomplish the work as specified in this RFP and any resulting contract.

Regulatory: Contractor(s) shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services

The contractor shall utilize Section 3 residents and businesses to perform the requirements under this proposal to the greatest extent feasible and shall document such efforts monthly. There is a 20 point bonus for a Section 3 Business Concern Certification. Contractors will be evaluated on their performance at achieving this goal and such evaluation shall be a factor in future awards.

PROPOSAL EVALUATION

All proposals will be evaluated by Housing Authority representatives. The evaluators may conduct interviews with “short-listed” firms to clarify information provided in the proposals. Proposals will be evaluated based on the following criteria:

1. Experience and Qualifications-15 points
2. Cost of Service-50 points
3. Capacity to Deliver Specified Service-25 points
4. Quality of References-10 points
5. Bonus points for Section 3 Concern Certification-20 Bonus Points

STATEMENT OF LIABILITY

The Contractor's responsibility for damages shall be as follows:

1. The Contractor(s) shall be responsible for all losses, damages or injuries that occur as a result of his fault or negligence, as well as those losses, damages or injuries resulting from acts of his employees.
2. The Contractor(s) shall carry all liability, workers' compensation, and other types of insurance necessary to hold the Housing Authority free of liability for any and all actions of the Contractor(s) and/or his/her employees due to performance, equipment, or contract scope.
3. The Contractor(s) shall list any additional insurance coverage it secures and shall provide the Housing Authority with evidence of its designation of the Housing Authority as an additional insured on each of its insurance policies. The insurance company shall directly notify the Housing Authority of any changes in the policies. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the HACE by the insurance company.

Professional Liability	Required Limits
HACE and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to HACE such as appraisers, inspectors, attorneys, engineers or consultants.	\$1,000,000
Business Automobile Liability	Required Limits
HACE and its affiliates must be named as an additional insured and as the certificate holder. Must include both owned and unowned vehicles.	\$ 1,000,000 combined single limit, per occurrence
Workers Compensation and Employer's Liability	Required Limits
Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000 A waiver of Subrogation in favor of HACE must be included in the Workers' Compensation policy. HACE and its affiliates must be named as a Certificate Holder.	Statutory \$1,000,000
Commercial General Liability	Required Limits
This is required for any vendor who will be doing hands on work at HACE properties. HACE and its affiliates must be named as an Additional Insured and as the Certificate Holder.	\$1,000,000 per accident \$2,000,000 aggregate

LAPSE IN INSURANCE COVERAGE

In the event Contractor fails to maintain insurance as required by a resulting contract, the Contractor shall immediately cure such lapse in insurance coverage at the Contractor's expense, and pay HACE in full for all costs and expenses incurred by HACE under this Contract as a result of Contractor's failure to maintain insurance as required, including costs and reasonable attorney's fees relating to HACE's attempts to cure such lapse in insurance coverage. Such costs and attorney fees, not to exceed fifteen hundred and 00/100 dollars (\$1,500.00), shall be automatically deducted from monies or payments owed to Contractors. Moreover, HACE shall retain from monies or payments owed to Contractor by HACE ten percent (10%) of the value of the Contract and place this retainage into an account to cover HACE's potential exposure to liability during the period of such lapse. This retainage shall be held by HACE until six (6) months after the term of the resulting contract has ended or

has otherwise been terminated, cancelled or expired and shall be released if no claims are received or lawsuits filed against HACE for any matter that should have been covered by the required insurance.

ADDITIONAL INFORMATION PERTAINING TO THE PRICING ITEMS:

1. QUANTITIES: As may be further detailed herein, the HA does not guarantee any minimum or maximum amount of work as a result of any award ensuing from this RFP, as the ensuing contract will be a Requirements Contract, in that the HA shall retain one contractor only and shall retain the right to order from that contractor (successful proposer), on a task order basis, any amount of services the HA requires.

a) SUPERVISOR: The contractor's assigned skilled staff person who has responsibility to supervise the work at the HA site. This person may, while supervising, also perform work typically assigned to the Technician. It is understood that a "supervisor" position will be paid by the HA only if there are 3 or more persons working on the site at the same time; if there is less than 3 persons working at the site at the same time, then the HA will only pay for such staff at the level they are actually working (i.e. Technician).

b) TECHNICIAN: The contractor's assigned skilled staff person who typically performs the required work.

2. PRICE ESCALATION: Upon mutual agreement by all contracting parties, at the end of the first one-year contract period (and at the end of any ensuing extended contract period), there may be an escalation of labor costs allowed in the same amount of any escalation that occurs pertaining to the corresponding or most similar (a) State of Indiana Prevailing Wage Rates, (b) Davis-Bacon Wage Rates, or (c) HUD Maintenance Wage Rate Determination (MWRD) for the HA (either used at the HA's discretion), if the Contractor's labor rates match the corresponding minimum rates in Attachment E. For example, if, at the end of the first contract period the listed Prevailing/Davis-Bacon/MWRD wage rates increase 5% as compared with the listed rates on the date of contract execution, then the Contractor may be entitled to a 5% increase in the labor rates that he/she submitted in response to this RFP. Similarly, for ensuing years, the end-date of the previous contract period shall be the base-line date to determine the previous listed wage rate.

a) NOTIFICATION MUST BE RECEIVED FROM THE CONTRACTOR: The Contractor must notify the contracting officer (CO), in writing, of such desired escalation at least 60 days prior to the end of the noted contract period(s). Such escalations may occur no more than once in any 12-month period without the express written consent of the CO.

3. OVERTIME: Pursuant to the Contract Work Hours and Safety Standards Act, overtime shall be not less than time and one half for hours worked more than 40 hours per week. The HA shall consider regular-time to be Monday-Friday (excluding holidays), 8:00AM – 5:00PM. Accordingly, the HA will pay a rate of 1.5 of the listed hourly rates (or any increased rate that increased per Section 3 herein) for any work the HA requires the successful proposer to work specifically during non-regular-time hours (however, the HA shall NOT be responsible to pay the successful proposer for any work that the successful proposer CHOOSES to work during non-regular-time hours).

4. HUD MAINTENANCE WAGE RATES DETERMINATION (MWRD): HUD has determined that the HA must ensure that contractors do not pay its employees that perform such work for the HA at a rate less than the rates listed on the HUD MWRD. Therefore, by submitting a proposal, each proposer agrees that he/she will not pay his/her employees at rates less than detailed within the following table. Please note that, as detailed within Section 10.10 of HUD Procurement Handbook 7460.8 REV 2 (most specifically within Section 10.10.E therein), the contractor will not be required to submit certified payrolls; however, the contractor must make its payroll records available to either the HA or HUD on request, and failure on the part of the contractor to comply with this requirement will be the sole responsibility of the contractor, including any ensuing penalties, court costs, or wages due to employees as a result of the contractor's failure to comply.

Work Classification	HUD-Determined Rate
General Maintenance	\$13.00
Maintenance Supervisor	\$15.38

I (we) propose to furnish services in accordance with the terms, conditions, and specifications embodied herein, all of which terms, conditions and specifications are hereby accepted and made a part of this proposal which are described on the proposal sheet herein and opposite of which prices have been entered, at the price or prices quoted. It is further understood and agreed that the present price in this proposal shall remain open and valid for sixty (60) days, and this proposal shall constitute an offer which, when accepted by the HACE, and subject to the terms and conditions of such acceptance, shall constitute a valid and binding contract between the undersigned and contractor and HACE.

ATTACHMENT A

SCOPE OF WORK

SCOPE OF SERVICES:

Services shall include, but not necessarily be limited to, the following:

General Maintenance Services:

- Minor replacement and/or repairs to the building and attached fixtures, including such work related to the floors; windows; window coverings; walls; cabinets; doors; hardware; appliances; plumbing; electrical; etc. The contract award ensuing from this RFP shall NOT be used to retain a contractor to perform any services that is considered construction-related, such as rehab of a fire-damaged unit. All repairs must be of workmanlike manner, as accepted by HUD REAC standard of quality. Advanced electrical work and clogged drains will be deferred back to the HACE point of contact.

Vacant Unit Preparation Services:

- Removal and disposal of items of refuse (papers, trash, garbage, and similar articles).
- Removal shall also include removals of resident installed wallpaper, nonstandard color paint, etc.
- Surface preparation to insure adherence of finish coat of paint, stain, or other finish material. If the surface is heavily damaged, or missing, replacement of materials may be necessary.
- Application of minimum of one coat of paint, stain, or other finish material.
- Clean and disinfect light covers, light switch & electrical outlet covers, interior & exterior window glass, window tracks, door & lockset surfaces, register diffusers, air returns, shelving, cabinetry, dryer vents, washing machine connections, furnace & water heater casing, household appliances, kitchen food preparation areas and bathroom fixtures. Select assignments may include remaining window treatments and resin storage sheds.

ATTACHMENT B
PROPOSED RATES

In addition to other information to be submitted by Proposer, unit rates per hour

General Maintenance Services:

Labor Fees: \$ _____ Per Hour

Discounts (if any) for time commitments or other: _____

Additional fees (if any):

I (we) propose to furnish services in accordance with the terms, conditions, and specifications embodied herein, all of which terms, conditions and specifications are hereby accepted and made a part of this proposal which are described on the proposal sheet herein and opposite of which prices have been entered, at the price or prices quoted. It is further understood and agreed that the present price in this proposal shall remain open and valid for sixty (60) days, and this proposal shall constitute an offer which, when accepted by the HACE, and subject to the terms and conditions of such acceptance, shall constitute a valid and binding contract between the undersigned and contractor and HACE.

Date:

By:

(Typed Signature)

(Title)

(Handwritten Signature)

(Business Address)

(Company Name)

(Business Phone/Fax)

Seal if Bid is by a Corporation

(To Be Completed and Signed By Contractor)

ATTACHMENT C
HUD 5369-B

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 and 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 D
HUD FORM 5370-C PART 1 AND 2

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2017)

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

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

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

proposal submitted before final payment of the contract.

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

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

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

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

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

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

22. Procurement of Recovered Materials

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

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2017)

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

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

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

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

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

1. Minimum Wages

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

2. Withholding of funds

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

3. Records

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

4. Apprentices and Trainees

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

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

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

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

5. Disputes concerning labor standards

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

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

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

6. Contract Work Hours and Safety Standards Act

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

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

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

(c) **Withholding for unpaid wages and liquidated damages.**

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

ATTACHMENT E
HUD MAINTENANCE WAGE RATES

Maintenance Wage Rate Decision		U.S. Department of Housing and Urban Development Office of Labor Relations		HUD FORM 52158 (06/2006)	
Agency Name: Elkhart HA 1396 Benaham Ave Elkhart IN 46516		LR 2000 Agency ID No: IN026A		Wage Decision Type: <input checked="" type="checkbox"/> Routine Maintenance <input type="checkbox"/> Nonroutine Maintenance	
		Effective Date: April 1, 2021		Expiration Date: March 31, 2023	
<p>The following wage rate determination is made pursuant to Section 12(a) of the U.S. Housing Act of 1937, as amended, (public housing agencies), or pursuant to Section 104(b) of the Native American Housing Assistance and Self-determination Act of 1996, as amended, (Indian housing agencies). The agency and its contractors may pay to maintenance laborers and mechanics no less than the wage rate(s) indicated for the type of work they actually perform.</p>					
<u>Loretta Szweduik /s/, CIRS</u> HUD Labor Relations (Name, Title, Signature)		<u>2-25-21</u> Date			
WORK CLASSIFICATION(S)		HOURLY WAGE RATES			
		BASIC WAGE		FRINGE BENEFIT(S) (if any)	
Maintenance Supervisor HVAC General Maintenance Hi-Rise Custodian Groundskeeper Office Custodian-Part-time Painter		\$15.38 \$14.00 \$13.00 \$10.50 \$10.31 \$10.00 \$11.00		As defined by the HA As defined by the HA As defined by the HA As defined by the HA As defined by the HA n/a As defined by the HA	
				<input type="checkbox"/> The agency employee benefit program has been determined by HUD to be acceptable for meeting the prevailing fringe benefit requirements. <small>(HUD Labor Relations: If applicable, check box and initial below.)</small> _____ LR Staff Initial	
		FOR HUD USE ONLY LR2000: Log in: Log out:			

ATTACHMENT F
SECTION 3 PLAN

Section 3 Plan

1. Overview of Section 3 Requirements

A. WHAT IS SECTION 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

B. PURPOSE OF THIS DOCUMENT

This plan outlines how the Housing Authority City of Elkhart (HACE) and its subrecipients, contractors and subcontractors will comply with HUD's Section 3 requirements in implementing HUD funded programs. Bidder will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

Housing Authority City of Elkhart may amend its Section 3 Policies and Procedures document as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies.

C. APPLICABILITY

For public housing financial assistance, all funding is covered, regardless of the amount of expenditure or size of a contract. This plan applies to development assistance, operating funds, capital funds, and all mixed-finance development.

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

For projects funded with Lead and Hazard Control and Healthy Homes Programs, this plan applies to projects that exceed \$100,000.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program.

Section 3 requirements **do not** apply to: 1) Material Supply Contracts - § 75.3(b), 2) Indian and Tribal Preferences - § 75.3(c), and 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

Section 3 Coordinator

Housing Authority City of Elkhart Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the PHA and its subrecipients, contractors and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to the HACE Section 3 Coordinator with questions regarding Section 3 compliance:

Erik Mathavan

Director, Comprehensive Improvements

Erik.Mathavan@ehai.org

2. Employment, Training, and Contracting Goals

A. SAFE HARBOR COMPLIANCE

Bidder will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below in Section C. After completion of the project, on the Section 3 Cumulative Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

B. SAFE HARBOR BENCHMARKS

Bidder has established employment and training goals that subrecipients, contractors, and subcontractors should meet to comply with Section 3 requirements outlined in 24 CFR Part 75.9 - for public housing financial assistance. The safe harbor benchmark goals are as follows:

- 1) Twenty-five (25) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Section 3 workers;

Section 3 Labor Hours/Total Labor Hours = 25%

And

- 2) Five (5) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Targeted Section 3 workers, as defined at 24 CFR Part 75.11.

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every 3 years. Given that the Section 3 benchmarks are subject to change every three years or sooner, Housing Authority City of Elkhart will review and update the Section 3 Plan every 6 years/months, as needed.

It is the responsibility of contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible. All contractors submitting bids or proposals to the Housing Authority City of Elkhart are required to certify that they will comply with the requirements of Section 3.

C. CERTIFICATION OF PRIORITIZATION OF EFFORT FOR EMPLOYMENT, TRAINING, AND CONTRACTING

EMPLOYMENT AND TRAINING

Under the HACE Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:

- 1) To residents of the public housing projects for which the public housing financial assistance is expended;
- 2) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- 3) To participants in YouthBuild programs; and
- 4) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

Low and very low-income within Elkhart County, IN, is defined as residents within the following income levels for FY 2022 (Median Income = \$83,600):

[Table No. 1]

Income Limit Category	(1) Person	(2) Persons	(3) Persons	(4) Persons	(5) Persons	(6) Persons	(7) Persons	(8) Persons
Very Low (50%)	\$26,450	\$30,200	\$34,000	\$37,750	\$40,800	\$43,800	\$46,850	\$49,850
Extremely Low (30%)	\$15,900	\$18,310	\$23,030	\$27,750	\$32,470	\$37,190	\$41,910	\$46,630
Low (80%)	\$42,300	\$48,350	\$54,400	\$60,400	\$65,250	\$70,100	\$74,900	\$79,750

Income Limit figures are based on FY2022 Fair Market Rent (FMR). For a detailed account of how these limits are derived, please see our associated FY2022 FMR documentation.

CONTRACTING

Under the HACE Section 3 Program, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order or priority:

- 1) Section 3 business concerns that provide economic opportunities for residents of public housing projects for which the assistance is provided;
- 2) Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing assistance;
- 3) YouthBuild programs; and
- 4) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

3. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from HACE or its contractors/subcontractors for training, employment, or contracting opportunities generated by public housing financial assistance. To qualify as a Section 3 worker, Targeted Section 3 worker, or a Section 3 business concern, each must self-certify that they meet the applicable criteria.

Businesses who misrepresent themselves as Section 3 business concerns and report false information to HACE may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

A. SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION

A Section 3 worker seeking certification shall submit self-certification documentation to the recipient contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, HACE will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at <https://www.huduser.org/portal/datasets/il.html>.

Persons seeking the Section 3 worker preference shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:

- 1) A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- 2) Employed by a Section 3 business concern; or
- 3) A YouthBuild participant.

Persons seeking the **Targeted** Section 3 worker preference shall demonstrate that it meets one or more of the following criteria:

Employed by a Section 3 business concern or

- 1) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - a) A resident of public housing; or
 - b) A resident of other public housing projects or Section 8-assisted housing; or
 - c) A YouthBuild participant.

The individual must contact Housing Authority City of Elkhart or developer from which they are seeking employment or contracting opportunities. They should identify themselves as a Section 3 worker or Targeted Section 3 worker and provide the documentation required for certification procedures. Prospective Section 3 workers may self-certify that they meet the requirements as defined in the regulations.

There are many ways that a worker can be certified as either a Section 3 Worker or Targeted Section 3 Worker under 24 CFR part 75:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) Certification from a PHA, or the owner or property manager of project-based Section 8- assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

- (i) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (ii) Certification from a PHA, or the owner or property manager of project-based Section 8- assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iv) A worker's certification that the worker is a YouthBuild participant.

The documentation must be maintained for the period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR § 200.334, Retention Requirements for Records (www.ecfr.gov/cgi-bin/retrieveECFR?n=se2.1.200_1334), which provides for retaining records for at least three years, as described in detail in that regulation. HACE or Bidder may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing project; or
- Evidence of participation in the YouthBuild program.

B. SECTION 3 BUSINESS CONCERN CERTIFICATION

Businesses that believe they meet the Section 3 Business requirements can/may self-register in the HUD Business registry, here: <http://www.hud.gov/Sec3Biz> as well as the HACE website here: <https://www.ehai.org/business-concern-certification---section-3.html>. Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

- 1) At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
- 2) At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- 3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Businesses that seek Section 3 preference shall certify, or demonstrate to Housing Authority City of Elkhart, contractors, or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Certification Form attached.

Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If the HACE previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 12 months. Establishing a 12 month certification of eligibility period allows the HACE the ability to assess contractor performance to ensure the business is striving to meet the required goals.

ATTACHMENT G

SECTION 3 COMPLIANCE AND ACKNOWLEDGEMENT FORM

Section 3 Program Acknowledgment

A. IS PARTICIPATION IN SECTION 3 OPTIONAL?

- Except for purchases or contracts solely for commodities and equipment, as a part of the solicitation the Housing Authority City of Elkhart (HACE) will offer all bidders and proposers the option of a Preference.
- In response to a competitive solicitation (quotes; bids; RFP's), bidders and proposers are not required to respond to the HACE with a claim of a Preference (meaning, such claim is optional and failure to respond with a claim of a Preference will not cause the bidder or proposer to be deemed non-responsive); however, if a bidder or proposer does claim a Preference, then the HACE will consider, investigate, and determine the validity of each such claim for a Preference.
- Regardless of whether or not a bidder or proposer claims a Preference in response to a solicitation, the recipient of the award will be required to, "to the greatest extent feasible," implement the requirements of Section 3 during the ensuing awarded contract term.

B. PREFERENCE AWARD

Business which obtain the Business Concern Certification will be eligible for the following Preference award:

- Pertaining to Quotations for Small Purchases (QSP's), the HACE will give a Preference of 10% to any quoter deemed to be eligible to receive such Preference ("deemed," based on information the quoter submits in response to the QSP issued). This means that for a quoter deemed eligible to receive a Preference, though he/she, for example, submits a quote of \$10,000, such quote will be considered by the HACE to be \$9,000 (10% less), even though, if awarded, the HACE will pay the quoter the full \$10,000 originally quoted.
- Pertaining to Invitations For Bids (IFB's), the HACE will give a Preference based upon the following:

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

- To apply for Business Concern Certification, go to [ehai.org](https://www.ehai.org), under Comprehensive Improvements, select Business Concern Certification – Section 3 or go to the following link: <https://www.ehai.org/business-concern-certification---section-3.html>
 - Certification form must be completed by time of sealed bid submission.

C. SECTION 3 PROGRAM ACKNOWLEDGEMENT*

***(The following must be signed regardless of Business Concern certification/eligibility)**

I have read the Section 3 Plan provided. I am aware that an award as the result of this competitive solicitation, even though I may not receive a Preference from the HACE because of my Business Concern status, I am still required to, to the greatest extent feasible, provide training, employment, contracting and other economic opportunities to low and very low-income persons, especially recipients of government assistance for housing, and to businesses/subcontractors that provide economic opportunities to low and very low-income persons.

Whether or not I apply for Section 3 Business Concern Certification for Contracting, I may be required to provide HACE an estimate number of Section 3 Labor Hours to arise as a result of my business participation on this project.

Print Name: _____

Signature: _____ Date: _____

ATTACHMENT H
HUD 50070-CERTIFICATION OF DRUG FREE WORKPLACE

Certification for a Drug-Free Workplace

U.S. Department of Housing
and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date

X

ATTACHMENT I
PROFILE OF FIRM FORM

REQUEST FOR PROPOSAL - RFP 2023-02-UT, GENERAL MAINTENANCE

PROFILE OF FIRM FORM

(This Form must be fully completed and submitted to the Agency when notified to do so by the Agency after the submittal deadline.)

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

(2) Name of Firm:

Telephone:

Fax:

Email:

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

(4) Please attached a brief biography/resume of the company, including the following information: (a) Year Firm Established; (b) Year Firm Established in Indiana; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).

(5) Identify Principals/Partners in Firm (submit under Tab No. 5 a brief professional resume for each):

[Table No. 1]

(1) Name	(2) Title	(3) % of Ownership

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit under Tab No. 5 a brief resume for each. (Do not duplicate any resumes required above):

[Table No. 2]

(1) Name	(2) Title

Signature

Date

Printed Name

Company

ELKHART HOUSING AUTHORITY, IN

REQUEST FOR PROPOSAL - RFP 2023-02-UT, GENERAL MAINTENANCE

PROFILE OF FIRM FORM

(This Form must be fully completed and submitted to the Agency when notified to do so by the Agency after the submittal deadline.)

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

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

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

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

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

WMBE Certification Number:

Certified by (What Agency):

(NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED TO PROPOSE - ENTER IF AVAILABLE)

(8) Federal Tax ID No.:

(9) Local Business License No. (if applicable):

(10) State of Indiana License Type and No. (if applicable):

(11) Federal License Type and No. (if applicable):

(12) Worker's Compensation Insurance Carrier:

Policy No.:

Expiration Date:

(13) General Liability Insurance Carrier:

Policy No.

Expiration Date:

(14) Automobile Liability Insurance Carrier:

Policy No.

Expiration Date:

Signature

Date

Printed Name

Company

ELKHART HOUSING AUTHORITY, IN