



ATTACHMENTS

Request for Qualifications

Labor and Employment Legal Services

SOLICITATION NO.: 05-600-23

PROPOSALS DUE:
Thursday, February 23, 2023
AT 10:00 A.M. (ET)

JEFFERY K. PATTERSON
CHIEF EXECUTIVE OFFICER

REQUEST FOR QUALIFICATIONS

LABOR AND EMPLOYMENT LEGAL SERVICES

RELEASE DATE: WEDNESDAY, JANUARY 25, 2023

**RESPONSE DATE AND TIME: THURSDAY, FEBRUARY 23, 2023
AT 10:00 A.M.**

SOLICITATION NO: 05-600-23

ATTACHMENTS:

(Must be completed and returned with bid)

FORM	DESCRIPTION
PD-1	Contractor Information
PD-2	Non-Collusive Affidavit
PD-3	Conflict of Interest Vendor Questionnaire and Verification
HUD 2992	Certification Regarding Debarment and Suspension
HUD 5369-C	Certifications and Representations of Offerors (Non-Construction Contract)
HUD 50070	Certification for a Drug-Free Workplace
HUD 92010	Equal Employment Opportunity Certification
DEI-1	ACE Program Acknowledgement
DEI-2	MBE/WBE/ACE Subcontracting Plan
DEI-3	ACE Worker Participation Plan



CONTRACTOR INFORMATION

Organization

Business Name: _____

Previous Business Name (if applicable): _____

Business Street Address: _____

City: _____ State: _____ Zip: _____

Business Telephone: _____ Business Fax: _____

E-Mail Address: _____

Year Business Established: _____ FEIN: _____

Has this business previously performed work for CMHA?	Yes	No
<i>If yes, briefly describe the work and when it was done:</i>		
Is this business registered with CMHA as a Minority-Owned Business?	Yes	No
Is this business registered with CMHA as a Women-Owned Business?	Yes	No
Has this business (or any other firm(s) with any of the same officers) previously received or been subject to debarment by a government agency?	Yes	No
<i>If yes, identify the government agency, the basis for the debarment, and the debarment period:</i>		
In the past five years, has this business (or any other firm(s) with any of the same officers) been investigated by a government agency for alleged violations of laws related to working conditions (such as workplace safety, minimum/overtime/prevaling wages, or labor organization) or workplace discrimination?	Yes	No
<i>If yes, identify the investigating government agency and the subject matter of the investigation:</i>		

Ownership and Control

Provide the following information for each individual with an ownership interest in the business.
 (If you need additional space, use an additional sheet of paper):

	Owner # 1	Owner #2	Owner # 3
Name:			
Home Address:			
Phone Number:			
Gender:			
Years of Ownership:			
Current Ownership Percentage:	%	%	%

References

Provide the following information for three references to whom the business has provided goods or services:

	Reference # 1	Reference #2	Reference # 3
Business Name:			
Business Address:			
Phone Number:			
Gender:			
Nature of Services/Goods Provided:			
Where Services/Goods Were Provided:			



NON-COLLUSIVE AFFIDAVIT
(Must be Notarized)

State of _____

County of _____

_____, being first duly sworn, states as follows:

1. They are the _____ for _____, which is the party (Respondent) submitting a response to a CMHA solicitation.
2. The Respondent's accompanying response to a CMHA solicitation is genuine and not collusive or a sham.
3. The Respondent has not colluded, conspired, connived, or agreed – directly or indirectly – with any other respondent or person to submit a sham bid or to refrain from bidding.
4. The Respondent has not directly or indirectly sought – by agreement, collusion, communication, or conference with any person – to:
 - a. Fix the Respondent's price or that of any other respondent;
 - b. Fix any overhead, profit, or cost element of Respondent's price or that of any other respondent; or
 - c. Secure any advantage against the Cuyahoga Metropolitan Housing Authority or any other person interested in the proposed contract.
5. I am authorized to make the foregoing representations on the Respondent's behalf.
6. The foregoing statements are true and accurate.

Signed: _____

Printed Name: _____

Subscribed and sworn to me by _____ on _____.

(notary seal)

Signature of Notary Public

My commission expires on: _____



CONFLICT OF INTEREST QUESTIONNAIRE

Business Name: _____ Solicitation No.: _____

Name: _____ Date: _____

Title: _____ Phone: _____

Street Address: _____

City: _____ State: _____ Zip: _____

A conflict of interest exists when the business's financial, personal, or business affairs have the potential (directly or indirectly) to influence the business's judgment or compromise their ability to carry out the responsibilities of a contract or could otherwise be detrimental to CMHA's integrity.

For purposes of this Questionnaire, "you" means the responding Business, its owners, partners (if the business is a partnership), members (if the business is a limited liability corporation), principals, and other high-level individuals with authority to bind the Business.

For purposes of this Questionnaire, "immediate family member" means: significant others, parents (including in-laws), children (including in-laws), grandparents (including in-laws), grandchildren (including in-laws), siblings (including in-laws), whether related by full blood or as a "half" or "step" relative, such as, for example, a half-brother or a stepchild. "Household member" means any person related by blood or marriage and residing in the same household as you.

	Question/Statement	Yes	No
1	Have you received and reviewed CMHA's Purchasing Policy, including its Ethics in Public Contracting section?		
2	Are you, any of your immediate family members, or any of your household members employed by CMHA?		
3	Do you, any of your immediate family members, or household members have a financial interest in any business or organization that conducts business with CMHA?		
4	Do you, any of your immediate family members, or household members own any property for which CMHA provides housing choice vouchers through the Housing Choice Voucher Program?		
5	Are you aware of any other actual, apparent, or potential conflicts of interest as defined by CMHA's Purchasing Policy?		

If you answered "Yes" to Questions 2, 3, 4, or 5, please explain (attach additional pages if needed):



I have received, reviewed, understood, and agreed to the Vendor Conflict of Interest procedures and have reported any and all actual, apparent, or potential conflicts of which we are aware. I examined this Conflict of Interest Questionnaire and my foregoing answers are, to the best of my knowledge, true and complete. I understand that knowingly providing false or misleading information will result in referral to the proper authorities for further investigation and can lead to sanctions, including CMHA contract termination.

Printed Name: _____ Date: _____

Signature: _____

Certification Regarding Debarment and Suspension

U.S. Department of Housing
and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant		Date
Signature of Authorized Certifying Official	Title	

Certifications and Representations of Offerors

Non-Construction Contract

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

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

1. Contingent Fee Representation and Agreement

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

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

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

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

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

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

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

(a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offers certifies that—

(1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offers or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offers, directly or indirectly, to any other bidder/offers or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder/offers to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

(1) Is the person in the bidder/offers's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offers's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offers's organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

4. Organizational Conflicts of Interest Certification

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

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

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

**Equal Employment
Opportunity Certification**
Excerpt From 41 CFR §60-1.4(b)

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

Department of Veterans Affairs
OMB Control No. 2502-0029
(exp. 9/30/2016)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: **Provided, however,** That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed

Firm Name and Address

By

Title

upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Excerpt from HUD Regulations

200.410Definition of term “applicant”.

- (a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term “applicant” as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph(a) of this section, the term “applicant” as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

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

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 10925 of March 6 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The contractor will include the provisions of Paragraphs(1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (b) Except in subcontracts for the performance of construction work at the site of construction, the clause is not required to be inserted in subcontracts below the second tier. Subcontracts may incorporate by reference to the equal opportunity clause.

200.425Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:

(1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.

(2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;

(3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;

(4) Contracts for the sale of Government property where no appreciable amount of work is involved; and

(5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.



ACE PROGRAM ACKNOWLEDGMENT

All firms and individuals intending to do business with CMHA must complete and submit this ACE Acknowledgment form with their bid, offer, or proposal. Any bid, offer, or proposal that does not include this document (completed, signed, and notarized) **will be considered non-responsive and ineligible for award.**

Section 3 Overview

Background – The work to be performed for CMHA is subject to the requirements of CMHA’s Advancing Community Employment (ACE) Program and/or Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u, regulated at 24 C.F.R. Part 75). The ACE Program and Section 3 ensure that employment and other economic opportunities are, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, directed to Low- and Very Low-Income Persons, particularly those who receive government assistance for housing, and to businesses that provide economic opportunities to Low- and Very Low-Income Persons.

Purpose – CMHA will use its best efforts to ensure that employment, training, contracting, and other economic opportunities are directed to Low- and Very Low-Income Persons and to eligible businesses. CMHA will require the same of its contractors. CMHA does not intend for contractors and subcontractors to terminate their existing employees. Rather, CMHA encourages them to use their best efforts to consider and hire qualified eligible ACE Workers and Targeted ACE Workers before any other person when additional employees are needed to complete work.

Applicability – CMHA will use its best efforts to actively seek out opportunities to support the purpose of its ACE Program and will encourage its contractors to do the same. As such, if a contractor fails to include ACE Workers and/or ACE Businesses in its subcontracting and participation plans (in response to a solicitation), CMHA may treat that contractor’s response to the solicitation as non-responsive.

Definitions

Applicable Expenditure means a contract, cost, or other expenditure by CMHA that is paid for by any amount of public housing financial assistance.

Business means the business responding to a CMHA solicitation and completing this ACE Acknowledgment form.

Labor Hours means the number of paid labor hours worked by persons working on an Applicable Expenditure.

Low-Income Person means a person as defined in Section 3(b)(2) of the 1937 Act who is at or below 80% the area median income. Note that ACE Worker eligibility uses *individual* income rather than family/household income. Updated area median incomes can be found [here](#).*

Very Low-Income Person means a person as defined in Section 3(b)(2) of the 1937 Act who is at or below 50% the area median income. Note that Section 3 Worker eligibility uses *individual* income rather than family/household income. Updated area median incomes can be found [here](#).*

ACE Worker, also known as a **Section 3 Worker**, means any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- a. The worker is a Low or Very-Low Income Person;

- b. The worker is employed by an ACE Business; or
- c. The worker is a YouthBuild Program participant.[†]

Targeted ACE Worker, also known as a **Section 3 Worker**, means an ACE Worker who:

- a. Is employed by an ACE Business;
- b. Currently or when hired, as documented within the past five years, is/was a resident of Public Housing or Section 8-Assisted Housing;
- c. Currently or when hired, as documented within the past five years, is/was a resident of other Public Housing Projects or Section 8-Assisted Housing managed by CMHA; or
- d. Currently or when hired, as documented within the past five years, is/was a YouthBuild Program participant.

ACE Business, also known as a **Section 3 Business**, means a Business meeting at least one of the following criteria, documented within the last six-month period:

- a. It is at least 51% owned and controlled by Low- or Very Low-Income Persons;
- b. Over 75% of the Labor Hours performed for the business over the prior three-month period were performed by ACE Workers; or
- c. It is at least 51% owned and controlled by current Public Housing residents or residents who currently live in Section 8-Assisted Housing.[‡]

Targets

CMHA established minimum targets (called “benchmarks” by HUD) that the Business must meet to comply with ACE. To comply with CMHA’s ACE Program, Contractors, and Subcontractors must ensure that:

- a. At least 25% of all Labor Hours worked on this project are worked by ACE Workers and
- b. At least 5% of all Labor Hours worked on this project are worked by Targeted ACE Workers.

Prioritization of Efforts

In reaching CMHA’s targets, the Business must prioritize its efforts to extend employment and training opportunities to ACE Workers as follows:

- First, to residents of the public housing project where the Applicable Expenditure is being spent;
- Second, to other CMHA residents or residents of Section 8-assisted housing managed by CMHA;
- Third, to YouthBuild Participants; and
- Fourth, to Low and Very Low-Income persons residing in the metropolitan area where the Applicable Expenditure is being spent.

In reaching CMHA’s targets, the Business must also prioritize its efforts to extend contracting opportunities to Section 3 Businesses as follows:

- First, to ACE Businesses that provide economic opportunities to residents of the public housing project where the Applicable Expenditure is being spent;

[†] A worker’s ability to be recognized as an ACE Worker will not be negatively affected by a prior arrest or conviction.

[‡] A Business’s ability to be recognized as an ACE Business will not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

- Second, to ACE Businesses that provide economic opportunities to other CMHA residents or residents of Section 8-assisted housing managed by CMHA;
- Third, to YouthBuild Participants; and
- Fourth, to ACE Businesses that provide economic opportunities to ACE Workers residing in the area where the Applicable Expenditure is being spent.

Reporting Requirements

The Business must survey its workforce to identify employees that are ACE or Targeted ACE Workers by requesting that each employee who may qualify to fill out an ACE Worker Self-Certification form.

The Business must also report to CMHA the data needed to track Labor Hours associated with Applicable Expenditures. Specifically, at the time of contract award, the Business must provide CMHA:

- A Core Employee List listing the name and job type of each of the Business's employees. The Core Employee List must also designate whether an employee is an ACE or Targeted ACE Worker
- An ACE Worker Self-Certification for each ACE Worker and Targeted ACE Worker identified on the Core Employee List.

CMHA may request additional information to verify the status of each self-certified ACE Worker.

Recordkeeping Requirements

The Business must maintain records supporting its ACE Workers' classification. This can include:

- The worker's self-certification that they are a Low or Very-Low Income Person;
- The worker's self-certification that they are a resident of Public Housing or Section 8-assisted housing;
- The Public Housing or Section 8-assisted housing owner, administrator, or manager's certification that the worker is a resident of Public Housing or Section 8-assisted housing;
- The employer's certification that the worker's income results in them meeting the definition of a Low or Very-Low Income Person;
- The employer's certification that the worker is employed by an ACE Business; or
- The worker's certification that they are a YouthBuild participant.

The Business must maintain the records described in this section for the records retention period applicable to program regulations or, if there is no such records retention period, then for a period that accords with 2 C.F.R. Part 200.

The foregoing information is a summary. For more detailed information, see CMHA's ACE Program.

PART 1: ACE Program and Section 3 Acknowledgement

Business Name: _____

Business Address: _____

Type of Business (Check One):

Corporation
Sole Proprietorship

Partnership
Other _____

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 and/or to CMHA's ACE Program wherein CMHA seeks to extend economic opportunities to Low and Very-Low Income Persons, regardless of HUD requirements.

The Business agrees it:

1. Will comply with CMHA's ACE Program and HUD's regulations in 24 C.F.R. Part 75, which implement Section 3, and certifies that it is under no contractual or other impediment that would prevent it from complying with those regulations.
2. Will comply with the recordkeeping requirements of the ACE Program.
3. Will include this ACE Acknowledgement form in every subcontract and will take appropriate action if it finds that a subcontractor is violating the ACE Program or 24 C.F.R. Part 75. The Business will not subcontract with any subcontractor if the Business knows a subcontractor has been found to have violated the ACE Program or 24 C.F.R. Part 75.
4. Will use its best efforts to achieve CMHA's ACE targets as described above.
5. Will prioritize its efforts to extend employment and training opportunities to ACE Workers and ACE Businesses as described in the ACE Program.
6. Acknowledges that violating the ACE Program or 24 C.F.R. Part 75 may result in sanctions, termination of any contract with CMHA, and debarment or suspension from future HUD assisted contracts.

Part 2: ACE Business Election

1. Select ONE of the following options:

This Business is **NOT** electing to certify as an ACE Business. (*Proceed to Part 3.*)

This Business **IS** electing to certify as an ACE Business. (*Proceed to Question 2.*)

2. If the Business is electing to certify as an ACE Business, identify which of these criteria apply to the Business (*Select one then proceed to Part 3*):

The Business is at least 51% owned and controlled by Low-or Very-Low-income Persons, as documented within the past 6 months.

ACE Workers performed at least 75% of the Business's labor hours over the prior three-months. (Note: If the Business elects this option, then the Business must ensure 75% of its labor hours are worked by ACE Workers for the duration of this project.)

The Business is at least 51% owned and controlled by current Public Housing residents or residents who currently live in Section 8 Assisted Housing.

Part 3: Acknowledgment and Notarization

I acknowledge that the information provided by the Business in this ACE Acknowledgment form is accurate. Moreover, I have read and understood the information contained in Part 1 and represent that the Business will use its best efforts to comply with HUD's Section 3 requirements and CMHA's ACE Program. I further acknowledge that if the Business knowingly provides false or misleading information associated with CMHA's ACE Business certification process, it may be barred from ongoing and/or future consideration for economic opportunities with or through CMHA.

If the Business elected to certify as an ACE Business at Part 1, Question 1 above, I:

- 1) Self-certify that the Business is an ACE Business as defined by CMHA's ACE Program;
- 2) Acknowledge that by completing this self-certification, the Business is not entitled to a contract with CMHA; and
- 3) Acknowledge that if CMHA identifies the Business as the apparent winning respondent, then CMHA will require it to complete an ACE Business Certification Application, which will verify the Business's eligibility as an ACE Business.

Name: _____

Title: _____

Signature: _____

Date: _____

State of _____

County of _____

The foregoing ACE Acknowledgment Form was acknowledged before me on

_____ by _____, the _____ for
_____, on behalf of that Business.

(Printed Name of Notary Public)

(Signature of Notary Public)

MBE/WBE/ACE SUBCONTRACTING PLAN

Description of Project: _____

Solicitation No.: _____ Respondent: _____

Directions: List the MBEs, WBEs, and ACE Businesses you intend to use if CMHA awards you the contract. CMHA's website has a list of MBE, WBE, and ACE Businesses under the "Doing Business with CMHA" tab. A respondent that is itself registered as an MBE, WBE, or ACE Business **must not** list itself as a subcontractor on this form.

Minority-Owned Business Enterprise (MBE) Participation

Name of MBE Contractor/Vendor	Scope of Work, Materials, Equipment etc. to Be Provided	Estimated Price	% of Bid

Women-Owned Business Enterprise (WBE) Participation

Name of WBE Contractor/Vendor	Scope of Work, Materials, Equipment etc. to Be Provided	Estimated Price	% of Bid

ACE Business Participation

Name of ACE Business Contractor/Vendor	Scope of Work, Materials, Equipment etc. to Be Provided	Estimated Price	% of Bid

Non MBE/WBE/ACE Business Participation

Name of Non-MBE/WBE/ACE Contractor/Vendor	Scope of Work, Materials, Equipment etc. to Be Provided	Estimated Price	% of Bid



If CMHA awards the respondent the contract related to the above-referenced solicitation number, the respondent certifies that it will use its best efforts to contract with the MBEs, WBEs, and ACE Businesses listed in this MBE/WBE/ACE Participation Plan or with other MBEs, WBEs, and/or ACE Businesses in a proportion equal to, or greater than, the amounts listed above. The respondent acknowledges that if it fails to complete this form or to encourage MBE, WBE, and ACE Business participation in this contract, CMHA may treat the respondent's bid as non-responsive.

Signature of Prime Bidder: _____ Date: _____

ACE WORKER PARTICIPATION PLAN

Description of Project: _____

Solicitation No.: _____ Respondent: _____

Step 1: List the positions anticipated that will be needed to complete this project.

Step 2: List the work hours that current employees – of the respondent and of any anticipated subcontractors – will complete on this project.

Step 3: List the work hours to be completed by ACE Workers.

	Number of Hours to Be Worked by <i>Respondent's and Anticipated Subcontractors' Employees</i>	Number of Hours to Be Worked by <i>ACE Workers</i>
Construction Trade or Work Classification		
TOTAL		

Total contract work hours by ALL WORKERS anticipated under this ACE Participation Plan: _____

Total contract work hours by ACE Workers anticipated under this ACE Participation Plan: _____

Percentage of anticipated contract work hours to be performed by ACE workers: _____%

If CMHA awards respondent the contract related to the above-referenced solicitation number, respondent certifies that it will use its best efforts to employ ACE Workers for the work listed in this ACE Participation Plan. Respondent acknowledges that if it fails to complete this form and/or fails to encourage ACE Worker participation in this contract, CMHA may treat respondent's bid as non-responsive.

Signature of Respondent: _____

Date: _____