

CITY OF LONG BEACH, NEW YORK

**Request for Proposals**  
for  
Architectural/Engineering Design Services  
*For*  
CITY OF LONG BEACH  
BULKHEADING – NORTH SHORE

New York State Governor's Office of Storm Recovery (GOSR)-Funded  
Disaster Recovery

March 5, 2015

Responses must be received by  
Thursday, March 26, 2015

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# Request for Proposals

## I. Introduction and Overview

The City of Long Beach is eligible to apply for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) funding for disaster recovery projects.<sup>1</sup> Funding will be delivered through the NY Rising Community Reconstruction (NYRCR) Program, within the New York State Governor's Office of Storm Recovery (GOSR). Accordingly, Respondents are obligated to comply with applicable federal and state laws and regulations set forth in Exhibit A (Supplementary Contract Conditions), as well as with the City of Long Beach Procurement Policy and Procedures. In addition, Respondents are obligated to comply with all municipal codes, ordinances, and regulations.

Procurement shall only be conducted with responsible vendors who have the technical and financial competence to perform as well as an exemplary record of integrity. Before selecting a vendor, the Subrecipient intends to review the federal and state lists of vendors excluded from procurement. Contracts shall not be awarded to debarred, suspended or ineligible vendors. Accordingly, responses to RFPs must include a completed NYS Vendor Responsibility Questionnaire and notarized certification, along with verification that a completed NYS Vendor Responsibility Questionnaire has been filed with the NYS Office of the State Comptroller: <http://www.osc.state.ny.us/vendrep/>.

In accordance with New York State General Municipal Law Section 104-b, this Request for Proposals (RFP) is designed to identify New York State licensed professional architectural and engineering (A/E) firms best qualified to provide the services necessary for design, construction administration, and inspection of Citywide bulkheading consistent with the requirements of this funding stream. Respondents will be reviewed on the basis of their eligibility and ability to provide services in a manner sensitive to specific requirements and timetables established by federal law. Not all qualified Respondents will be selected to provide these services.

The City of Long Beach will select qualified architectural and engineering firms of the highest quality that employ adequate staff and possess the financial management capacity to be able to focus immediate attention on this project.

Through its Evaluation Team, the City of Long Beach will select the Respondent whose proposal receives the greatest number of points. The Evaluation Team will only open or evaluate Cost Proposals from those firms that it has determined are qualified on the basis of the Technical Factors listed below. After those firms that are qualified have been identified, the Evaluation Team will factor in the cost of the qualified proposals using the formula set forth below under Selection Process. The Cost Proposal is included as Schedule D.

The City of Long Beach reserves the right to negotiate the distribution of the A/E fee. The City of Long Beach reserves the right to reject any and all proposals either in whole or in part.

Respondents will not be reimbursed for costs incurred in the preparation of the proposal.

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<sup>1</sup>U.S Department of Housing and Urban Renewal (HUD) Community Development Block Grant-Disaster Recovery ("CDBG-DR") funds appropriated by the Disaster Relief Appropriations Act ("PL 113-2").

The funding level anticipated for Construction and A/E is \$12,450,000.00

## **II. Project Description**

The City of Long Beach is seeking to retain the services of a professional engineering firm to amend Article IV of the City of Long Beach Code of Ordinances pertaining to Bulkheads. Article IV . Section 6-67 thru 6-72 of the City of Long Beach Code of Ordinances governs the repair and/or replacement of bulkheads. The intent is to modify the code to reflect current codes, standards, and regulations. The intent is to change the code to create a uniform requirement for all future construction to mitigate storm damage. The selected consultant will also be tasked with preparing a requirements contract for bulkhead installation for non-site specific locations within the City of Long Beach. The selected consultant will be required to provide a proposal to prepare and submit bulkhead permits for approval by the NYSDEC, U.S. Army Corp. of Engineers, and Town of Hempstead. The rating i.e., excellent, very good, good, fair, poor, failure in the *Conditions Evaluation of Bulkheads and Outfall Structures in the City of Long Beach, New York* on file in the City of Long Beach Department of Public Works will be utilized to select the bulkhead replacement candidates. Soil borings to facilitate the design effort will be incorporated in the project and is the responsibility of the Engineer. The consultant is required to provide hourly rates for technical staff for Construction Administration and Construction Inspection as well.

Superstorm Sandy devastated the north shore of Long Beach with the storm surge passing over the shoreline and damaging almost all homes, businesses, and critical facilities inland. The northern portion of the City possesses some of the lowest elevations and is extremely susceptible to flooding. Existing bulkheads that are too low and/or are in disrepair contribute to the problem. In some areas bulkheads are non-existent. Coastal erosion and flooding along the southern perimeter of the City is being accomplished through the U.S. Army Corp. of Engineers Coastal Erosion Protection Project. Rehabilitation of the existing groins, beach replenishment, and dune construction are proposed to increase protection in this area. Protection of the north shore is a crucial component to the future resiliency of Long Beach. The intent of this project is to provide incremental, phased installation of new, and replacement and improvement (additional height) of existing substandard bulkheads on the north shore to a uniform height as required to protect the Community.

### **III. Deadlines and Completion Date**

The Technical Proposal and Cost Proposal must be delivered **in separate envelopes** to the City of Long Beach in accordance with Schedule B. Proposals are due on Thursday, March 26, 2015. The City of Long Beach reserves the right to extend receipt of submissions beyond Thursday, March 26, 2015.

If your firm is interested in responding to this Request for Proposal, your Proposal must be submitted to:

James LaCarrubba

Commissioner of Public Works

City of Long Beach

Department of Public Works-Room 404

One West Chester Street

Long Beach, New York 11561

All Proposals must be received at the above address before the end of the submission period, either by hand delivery, courier or by certified mail in a sealed envelope, to the above office. The cost proposal shall be provided in a *separate* sealed envelope by 11:00 A.M. Thursday, March 26, 2015 and shall be based upon the information contained herein. Respondents must supply one hard copy and five disc copies of its submission

Questions about the RFP and the submission of Proposals shall be directed in writing to:

Mr. Joseph Febrizio

Deputy Commissioner of Public Works

Department of Public Works . Room 404

City Hall

One West Chester Street

Long Beach, New York 11561

(516)431-1000 ext. 1011

(516)431-5008 (fax)

[jfebrizio@longbeachny.org](mailto:jfebrizio@longbeachny.org)

Questions or requests for any clarifications about the RFP will only be accepted up until Tuesday, March 17, 2015.

#### **IV. SCOPE OF WORK**

The selected engineering firm will be requested to work closely with the City to perform the following tasks:

##### **1. APPLICATION PREPARATION**

Assist City of Long Beach in the preparation of its CDBG-DR Project Application, including but not limited to:

- A detailed project description;
- A detailed estimate of the total project costs broken out by services and construction costs;
- A project schedule;
- Maps including project, site and identification of privately owned property vs. publically owned property within the project boundary.

The selected A/E firm will be paid for this service after the application is accepted by GOSR.

##### **2. AMEND THE CITY OF LONG BEACH CODE OF ORDINANCES**

The selected consultant will be required to revise the existing Code of Ordinances pertaining to bulkheads. The work required to revise the Code governing bulkheads shall include the following:

- Elimination of the existing section of the Code of Ordinances governing bulkheads
- Create a new section of the Code of Ordinances governing bulkheads. This shall include but not be limited to creating and providing a comprehensive narrative explaining the rules and regulations pertaining to bulkheads.
- Clearly identify the process to obtain a permit. This shall include all relevant agencies involved i.e., Town of Hempstead, New York State Department of Environmental Conservation, U.S. Army Corp. of Engineers and/or any other participating authority.
- Presenting the proposed ordinance at a minimum of two public meetings.
- Attending meetings (minimum four) with City staff and/or residents.
- Provide draft amendment (minimum six copies) to the City of Long Beach Code of Ordinances for review.
- Provide final (minimum six copies) amendment to the City of Long Beach Code of Ordinances.
- Establish minimum height requirement for all newly constructed bulkheads.
- Establish bulkhead %ines+.

##### **3. PREPARE REQUIREMENTS CONTRACT FOR BULKHEAD REPLACEMENT**

The objective of this exercise is to solicit bids and procure the services of a reputable contractor to perform incremental, phased installation of new, and replacement and improvement (additional height) of existing substandard bulkheads at non-site specific locations within the City of Long Beach. As such, the selected consultant will be required to prepare a contract for public bidding to allow the City to obtain fixed unit prices for bulkhead repair/replacement. The bid document will be prepared utilizing the City's standard boilerplate and incorporate the following:

- Detailed drawings depicting typical bulkhead installations i.e., wales, sheets, piles, tie backs, anchoring systems, splicing, cap, outfall, railing, etc., This includes cantilever sheets installed without a tieback system (driven in front of the existing bulkhead).
- Detailed technical specifications for all components.
- Preparation of construction estimate(s).
- Preparation of Right of Way Services including identification of Ownership
- Preparation of Pricing (p-sheets) sheets depicting item #, item description, and estimated quantity.
- Provide detailed drawings and technical specifications for items related to the work i.e., tree planting, sod, sidewalk, etc.
- Provide a Contingency item for unforeseen circumstances.
- Review all comments and/or questions posed by prospective bidders.
- Prepare all necessary addenda to the contract documents
- Review all bid proposals and attend meeting(s) with City personnel to discuss same.
- Coordination with Engineer of record on the North Side Critical Infrastructure Protection Program Project.
- Assist City in evaluating the past performance of the apparent low bidders and their ability to perform the tasks delineated.
- Provide a written recommendation to the City regarding the award of construction contracts.

#### Prepare Plans and Specifications

The Consultant shall perform all work required to prepare detailed plans and specifications (design), in such a manner that they can be used for initiating Construction.

The Consultant will be required to prepare detailed plans and specifications for the project. The selected consultant will be required to assemble a detailed project construction estimate as well.

The bid documents shall consist of the following:

Contract sheet drawings shall include as a minimum:

- Title Sheet
- Index and legend
- Existing and proposed elevation views
- Typical sections
- Plan and profile
- Construction sign text data
- Miscellaneous details

8 ½" x 11" MATERIALS SHALL INCLUDE COPIES OF:

- Contract Documents
- Specific Specifications
- Special Notes
- Item listing
- Price Analyses for items
- Requisite copies of plans and specifications as delineated in this proposal.

The consultant will be responsible to answer all questions, in writing, that pertain to the bid during the bid process as well as prepare addendums (as necessary) in the event of changes to the plans and/or specifications.

The consultant will be required to provide the City with ten (10) sets of final plans and specifications on compact disc as well as four (4) hard copies (2 full and 2 half size). The consultant will be required to provide three (3) draft sets of plans and specifications for review.

#### 4. PROVIDE NON-SITE SPECIFIC PROPOSAL TO DESIGN AND OBTAIN PERMIT FOR BULKHEAD

The selected consultant will be required to provide the City with a cost proposal to prepare and submit design, as well as permit documents to the governing agencies for approval. The selected consultant is requested to provide a *unit price per linear foot* of waterfront frontage to design and submit permits for properties. The City total linear feet of bulkhead contemplated by this project is approximately ten thousand nine hundred (10,900) linear feet. Under this task the following is required:

- Prepare permit application for all regulatory agencies i.e., Town of Hempstead, U.S. Army Corp. of Engineers, and New York State Department of Environmental Conservation.
- Respond to all comments from regulatory agencies.
- Obtain permit approval
- Prepare site specific design for submittal to all regulatory agencies.
- Prepare topographical survey (as necessary) for submittal with permit applications.
- Obtain soil borings in the project area (modify sheet length as necessary)
- Site photos as required by the permit application.
- Comply with the deliverables of all applicable regulatory agencies.
- The City of Long Beach to receive three copies of all submittals and approvals.
- Coordination with property owners to facilitate the project. This project will incorporate installation of bulkheading adjacent to residential properties. As such, it is anticipated that disruption of private property is anticipated. Therefore planning, communication, etc. will be of paramount importance.

#### 5. CONSTRUCTION ADMINISTRATION

The Awardee must have a demonstrated record of experience administering construction activities of projects of size and scope. If authorized by the City, the Services shall include the following:

- Hold pre-construction meetings.



- Assist the City in evaluating the past performance of the apparent low bidder and their ability to perform the tasks delineated.
- Provide a written recommendation to the City regarding the award of construction contracts.
- Respond to resident inquiries regarding the project.
- Review construction schedule and cost breakdown.
- Respond to questions related to the intent of the design
- Shop drawing review
- Interpretation of design drawings and specifications
- Review and preparation of change orders.
- Review and approve all proposed deviations and substitutions to the contract drawings
- Review all laboratory, shop, mill, material, and equipment test reports.
- Review Contractor payment requests
- Review As-Built drawings
- Supply certification of quantities or units of materials, and supply certification that all work was constructed in accordance with the plans and specifications or any amendments thereto.

The multiplier shall in no case exceed 2.75. The consultant shall provide hourly wage rates for the following positions; Principal, Senior Engineer, Engineer, Construction Inspector, Environmental Scientist, and Engineer Technician (Cadd Operator).

## 6. CONSTRUCTION INSPECTION

The City, at its discretion, may elect to utilize the design firm to provide construction inspection services. The Consultant shall provide the City with an hourly rate for the following personnel; Principal, Senior Engineer, Engineer, Construction Inspector, Environmental Scientist, and Engineer Technician (Cadd Operator). The multiplier shall in no case exceed 2.75. The City reserves the right to select and negotiate the procurement of inspection services with the selected design consultant or seek proposals upon completion of the design phase. The duties of the firm retained for Construction Inspection shall include, but not be limited to the following:

- Conduct progress meetings
- Prepare agenda for progress meetings
- Prepare minutes for progress meetings
- Provide construction inspection services, as required, to properly oversee site activities and insure consistency with the plans and specifications
- Maintain a detailed log of all activities that take place on the site. The City shall be provided with photocopies of the log on each day.
- Maintain records of all meetings. Provide meeting summaries (minutes) for all meetings
- Resolve issues that may evolve as the design work is undertaken, due to differing site conditions and/or changes the City may wish to implement.
- Review contract documents in order to identify and report degree of Contractor compliance with the Contract Documents

- Photograph key components of the work.
- Record the quality and quantity of the construction to determine that the work conforms to the contract.
- Verify contractor's application for payment including quantities, payrolls, etc.
- Evaluate and make recommendations on credit and change order requests.
- Respond to Request for Information (RFI).
- Ensure contract compliance, design intent, quality of workmanship, and material acceptance.

The successful Respondent will assist the City of Long Beach with all services necessary for amending the City of Long Beach Code of Ordinances, preparation of the bid package for bulkhead replacement, preparation and submittal of permit applications to the governing agencies, construction administration, and construction inspection of this project, in accordance with HUD and GOSR requirements and timetables.

## **V. SUBMITTAL CONTENT**

The Proposal must contain the following information and documentation:

- **Firm.** Respondent's legal structure, areas of expertise, length of time in business, number of employees and detailed contact information for the person authorized to contractually obligate the Respondent and for the person administratively responsible for the Proposal.
- **Subconsultants.** Identify any subconsultants, including a summary of the organization, experience and technical skills. Respondent shall not employ, contract with, or use the services of any consultant for the work of this Contract (except such third parties which may be used by the Respondent in the normal course of business, such as couriers, imaging services, etc.) without obtaining the prior written approval of GOSR.
- **Disclosure.** Disclose all allegations or claims of substandard work, unethical or illegal practices or debarment or suspension from State- or Federally-funded projects, and provide documentation as to the resolution of these matters. Respondent must not be suspended or debarred from participation in State- or Federally-funded projects. Include completed NYS Vendor Responsibility Questionnaire, with notarized certification.  
<http://www.osc.state.ny.us/vendrep/>.
- **Relevant Experience.** Previous projects that demonstrate relevant experience and identify public sector clients for whom Respondent has provided similar work in the past five years. For each project described, provide current contact information for the individual with whom Respondent worked.
- **Approach and Methodology.** Respondent's understanding of the scope, including a detailed work plan to complete the design services.
- **Staffing Plan.** Respondent's capacity to provide services in the required timeframe, and key personnel to provide services and the proposed staffing plan. Outline the resumes of key personnel who will be assigned to the project, including their years of experience and functions on this project.
- **Ability to Conform to Subrecipient's Timeline.** Describe firm's workload and the impact on its current capacity to perform services on this project, and describe

specifically how the firm will comply with the required delivery schedule set forth in Schedule B.

- **Commitment to Comply with All Applicable Federal, State, and Local Regulations, including Minority and Women-Owned Business Enterprise (M/WBE) and Section 3.** Describe firm's commitment to and plan for complying with all applicable Federal, State, and local regulations, including, as described below, M/WBE obligations and hiring requirements under Section 3 of the Housing and Community Development Act. This is a factor for firm selection, and Respondents who demonstrate a commitment to comply will receive the most points (as described herein under "Selection Process").
- **Iran Divestment Act.** Respondent must attach a signed statement on company letterhead that is affirmed as true under penalty of perjury.
- **Costs.** Complete the Cost Proposal (Schedule D) for completing this project. The Cost Proposal must be included in a separate sealed envelope.

**Attachments.** Resumes and material helpful to the technical evaluation may also be attached (short project descriptions, brochures).

## **VI. Selection Process**

Technical Proposals responsive to the requirements of this RFP will be evaluated and scored in accordance with the Evaluation Criteria. After evaluation of the Technical Proposals, Cost Proposals will be scored for cost.

During or after the review of responses, the City of Long Beach may submit written questions and requests for clarification, and may conduct interviews. Respondents must comply with the Deadline Schedule (Schedule B), which may be adjusted if necessary.

The City of Long Beach shall evaluate each respondent in terms of:

<b>Technical Factors</b>	<b><u>Maximum Points</u></b>
1. Relevant Experience	20
2. Approach and Methodology	20
3. Staffing Plan	20
4. Ability to Conform to Subrecipient's Timeline	10
5. Commitment to Comply with all Applicable Federal, State and Local Regulations including M/WBE and Section 3	10
<b>Total Technical Factors</b>	<b>80</b>
<b>Total Cost Factors</b>	<b>20</b>
<b>Maximum Points</b>	<b>100</b>

The City of Long Beach's Evaluation Team will conduct a technical evaluation of the non-cost elements as described in the RFP prior to opening the Cost Proposals. No more than 80 technical total points will be awarded to any proposal.

The Cost Proposal will remain sealed until completion of the technical evaluation, and will only be considered for the best qualified firms. No more than 20 points will be awarded to any Respondent.

Cost points will be awarded as follows:

- The lowest priced qualifying technical proposal will be awarded the full 20 points. Other bidders will be awarded as follows: total cost points = (lowest bidder cost/other bidder cost) x 20.
- The City of Long Beach will weigh the technical and cost evaluation results of each submittal as two components, which together will have a maximum total score of 100 points.

After evaluation of selected Technical Proposals and Cost Proposals, the City of Long Beach reserves the right to award without delay contingent upon approval from the Governor's Office of Storm Recovery. The City of Long Beach will prepare a Resolution for approval by the City Council, and upon approval by the Council, send out the Notice of Award and a Notice to Proceed.

## **VII. Specific Legal Obligations**

### **a. Procurement**

In accordance with Section 104-b(2)(f) and Section 139-j(2)(a), the City of Long Beach must identify the individual responsible for purchasing and the individual who is the sole point of contact during the procurement. Rosemary Alton is the Purchasing Agent and is the individual responsible for purchasing in the City of Long Beach.

In accordance with State Finance Law §§ 139-j and 139-k, this RFP imposes restrictions on communications between the City of Long Beach, GOSR, and Respondents during the procurement. Respondent is restricted from making contact from the earliest notice of intent to solicit offers through final award and approval of the contract (the restricted period) with the City of Long Beach staff other than the RFP Coordinator, unless it is a contact included among expressly provided statutory exceptions set forth in State Finance Law § 139-j(3)(a).

City of Long Beach employees also are required to obtain certain information when contacted during the restricted period and make a determination of responsibility of the Respondent pursuant to these two statutes. Certain findings of non-responsibility can result in the rejection for contract award and in the event of two (2) findings within a four-year period the Respondent is debarred from obtaining governmental procurement contracts.

### **b. Diversity and Income Requirements**

#### ***Minority and Women Owned Businesses (M/WBE)***

The City of Long Beach is committed to awarding a contract(s) to firms that will provide high quality services and that are dedicated to diversity and to containing costs. The City of Long

Beach strongly encourages Respondents that are certified by New York State, any other city or state, or the federal government, as M/WBE firms, as well as Respondents that are not yet certified but have applied for certification, to submit responses to this RFP. All New York State-certified M/WBE firms submitting proposals to this RFP should be registered as such with the New York State Department of Economic Development. For M/WBE firms that are not certified but have applied for certification, Respondents must provide evidence of filing including filing date.

The City of Long Beach is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (M/WBE Regulations) for all New York State funded contracts as defined therein, with a value in excess of \$25,000. The City of Long Beach strongly encourages joint ventures of M/WBE firms with majority firms and M/WBE firms with other M/WBE firms. For purposes of this solicitation, The City of Long Beach hereby establishes an overall goal of 30% for M/WBE participation, 15% for minority-owned business enterprises (MBE) and 15% for women-owned business enterprises (WBE).

### *Section 3*

In addition to the above diversity requirements, and pursuant to Section 3 of the Housing & Community Development Act (HCDA), The City of Long Beach is committed to ensuring that employment and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, state and local laws and regulations, be directed to Section 3 residents and businesses.

A ~~Section 3 resident~~+is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended. For the purposes of Section 3 of the HCDA, low-income persons are defined as families (including single persons) whose incomes do not exceed 80% of the median income for the area, and very low-income persons are defined as families (including single persons) whose incomes do not exceed 50% of the median income for the area.

A ~~Section 3 business~~+is a business that can provide evidence that it meets one of the follow criteria: 1)51% or more owned by Section 3 residents; or 2) at least 30% of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire; or 3) provides evidence, as required, of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to business concerns that meet one of the preceding two qualifications.

In their submittals, Respondents should demonstrate their commitment to advancing City of Long Beach Section 3 goals, which include the following: 30% of new hires associated with the CDBG-DR funded project shall be Section 3 residents, 10% of new construction contracts shall be awarded to Section 3 businesses, and 3% of non-construction contracts shall be awarded to Section 3 businesses.

### c. Iran Divestment Act

Every Proposal made to the City of Long Beach pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty

of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. No Response that fails to certify compliance with this requirement may be accepted as responsive.

#### **VIII. APPLICABLE LAW**

##### **New York Law and Venue**

This contract shall be construed under the laws of the State of New York. All claims, actions, proceedings, and lawsuits brought in connection with, arising out of, related to, or seeking enforcement of this contract shall be brought in the Supreme Court of the State of New York, Nassau County.

## Schedule A

### Project Description

The City of Long Beach is utilizing CDBG-DR funding to install new and replace substandard bulkheads along sections of the north shore to protect Long Beach residences against intensified flooding resulting from sea level rise after Superstorm Sandy and during future storm surges. Bulkhead replacement will be based on the extensive analysis from the City's August 2013 *Conditions Evaluation of Bulkheads and Outfall Structures in the City of Long Beach, New York*. During Superstorm Sandy, the north shore of the barrier island was devastated by storm surges rising above the shoreline and damaging almost all homes, businesses and critical facilities on the island.

Superstorm Sandy underscored the inadequacy of the existing bulkheads to protect against major storms. If nothing is done to protect the north shore, flood risk in Long Beach will increase. The City and the public all recognize this project is a crucial component to disaster recovery for the City of Long Beach.

The project involves activities relating to the installation, replacement, and improvements to bulkheads along the north shore to provide adequate storm protection. A phased approach will be utilized in the selection of bulkhead repair/replacement. The basis for the phased approach will be the City's August 2013 *Conditions Evaluation of Bulkheads and Outfall Structures in the City of Long Beach, New York*. Respondents will be required to contemplate alternatives that provide protection while considering the impacts to the adjacent homeowners and is cost effective. The City requires that the consideration be given to the impacts of construction on adjacent properties. Coordination and communication with impacted homeowners will be critical during this project.

The detailed Scope of Work contained herein further identifies the requirements of respondents.

Schedule B

Deadline Schedule

- |   |                          |
|---|--------------------------|
| A. Date for Publication of Notice:                        | Thursday, March 5, 2015  |
| B. Date for Questions from Respondents:                   | Tuesday, March 17, 2015  |
| C. Date for Response to Respondents' Questions:           | Friday, March 20, 2015   |
| D. Date for Submission of Proposals:                      | Thursday, March 26, 2015 |
| E. Date for Evaluation of Proposals:                      | Tuesday, March 31, 2015  |
| F. Date for Award:  | Tuesday, April 7, 2015   |
| G. Date for Notice of Contract Award with Draft Contract: | Wednesday, April 8, 2015 |
| H. Date for Execution of Contract with Notice to Proceed: | Monday, April 20, 2015   |
| I. Date for Receipt of Deliverable:                       | Monday, October 7, 2015  |

The City of Long Beach reserves the right to modify this Timeline as necessary.

Changes to the Timeline will be published on the City of Long Beach Website.

All Technical Proposals with Cost Proposals shall be submitted in hard copy, signed in the original, and received and date stamped by the Owner on or before **11:00 am on Thursday, March 26, 2015.**

Respondent is responsible for meeting all deadlines.



## Schedule C

### Insurance Requirements

(a) Types and Amounts. The contractor shall obtain and maintain throughout the term of this Agreement, at its own expense (i) one or more policies for commercial general liability insurance, which policy(ies) shall name %City of Long Beach+as an additional insured and have a minimum single combined limit of liability of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate coverage, (ii) if contracting in whole or part to provide professional services, one or more policies for professional liability insurance, which policy(ies) shall have a minimum single combined limit liability of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate coverage, (iii) compensation insurance for the benefit of the Contractor's employees (%Workersq Compensation Insurance+), which insurance is in compliance with the New York State Workersq Compensation Law, and (iv) such additional insurance as the City may from time to time specify.

(b) Acceptability; Deductibles; Sub-consultants. All insurance obtained and maintained by the contractor pursuant to this Agreement shall be (i) written by one or more commercial insurance carriers licensed to do business in New York State and acceptable to the City and which is (ii) in form and substance acceptable to the City. The contractor shall be solely responsible for the payment of all deductibles to which such policies are subject. The contractor shall require any sub-consultant hired in connection with this Agreement to carry insurance with the same limits and provisions required to be carried by the contractor under this Agreement.

(c) Delivery; Coverage Change; No Inconsistent Action. Prior to the execution of this Agreement, copies of current certificates of insurance evidencing the insurance coverage required by this Agreement shall be delivered to the Department. Not less than thirty (30) days prior to the date of any expiration or renewal of, or actual, proposed or threatened reduction or cancellation of coverage under, any insurance required hereunder, the contractor shall provide written notice to the Department of the same and deliver to the Department renewal or replacement certificates of insurance. The contractor shall cause all insurance to remain in full force and effect throughout the term of this Agreement and shall not take or omit to take any action that would suspend or invalidate any of the required coverages. The failure of the contractor to maintain Workersq Compensation Insurance shall render this contract void and of no effect. The failure of the contractor to maintain the other required coverages shall be deemed a material breach of this Agreement upon which the City reserves the right to consider this Agreement terminated as of the date of such failure.

SCHEDULE D . COST PROPOSAL SHEET

**Request for Proposals**

for

Architectural/Engineering Design Services

*For*

CITY OF LONG BEACH

BULKHEADING – NORTH SHORE

New York State Governor's Office of Storm Recovery (GOSR)-Funded

Disaster Recovery

March 5, 2015

**CITY OF LONG BEACH, NEW YORK 11561**

**REQUEST FOR PROPOSALS**

1. APPLICATION PREPARATION

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(total . in figures)

---

(total . in words)

2. AMEND THE CITY OF LONG BEACH CODE OF ORDINANCES

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(total . in figures)

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(total . in words)

3. PREPARE REQUIREMENTS CONTRACT FOR BULKHEAD REPLACEMENT

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(total . in figures)

---

(total . in words)

4. PROVIDE NON-SITE SPECIFIC PROPOSAL TO DESIGN AND OBTAIN PERMIT FOR BULKHEAD

10,900 linear feet x \$ \_\_\_\_\_/linear foot =

---

(total - in figures)

---

(total . in words)

5. CONSTRUCTION ADMINISTRATION

The multiplier shall in no case exceed 2.75. The consultant shall provide hourly wage rates for the following positions; Principal, Senior Engineer, Engineer, Construction Inspector, Environmental Scientist, and Engineer Technician (Cadd Operator).

A. Principal            40 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
 \$ \_\_\_\_\_

Hourly rate            Multiplier            Total

B. Senior Engineer    40 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
 \$ \_\_\_\_\_

C. Engineer            40 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
 \$ \_\_\_\_\_

D. Construction Insp. 80 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
 \$ \_\_\_\_\_

E. Env. Scientist                    80 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

F. Engineer Technician            80 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

---

(total A+B+C+D+E+F- in figures)

---

(total A+B+C+D+E+F-in words)

## 6. CONSTRUCTION INSPECTION

A. Principal                    208 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

		Hourly rate	Multiplier	Total
B. Senior Engineer	208 HOURS X _____/HR.		X _____	=
\$ _____				

C. Engineer                    1560 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

D. Construction Insp. 2080 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

E. Env. Scientist                    1040 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

F. Engineer Technician            1040 HOURS X \_\_\_\_\_/HR. X \_\_\_\_\_ =  
\$ \_\_\_\_\_

---

(total A+B+C+D+E+F- in figures)

---

(total A+B+C+D+E+F-in words)

FINAL TOTAL

(1. APPLICATION PREPARATION + 2. AMEND THE CITY OF LONG BEACH CODE OF ORDINANCES + 3. PREPARE REQUIREMENTS CONTRACT FOR BULKHEAD REPLACEMENT + 4. PROVIDE NON-SITE SPECIFIC PROPOSAL TO DESIGN AND OBTAIN PERMIT FOR BULKHEAD + 5. CONSTRUCTION ADMINISTRATION + 6. CONSTRUCTION INSPECTION)

---

(total . in figures)

---

(total . in words)

Submitted By: \_\_\_\_\_

(Name of Company)

Name of Authorized Representative: \_\_\_\_\_

(Print Name)

Signature of Authorized Representative: \_\_\_\_\_

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

NON-COLLUSIVE PROPOSAL SUBMISSION CERTIFICATION

By submission of this proposal, each proposed and each person signing on behalf of any proposal certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

1. The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposed and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and
3. No attempt has been made or will be made by the proposed to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

I, the undersigned, attest under penalty of perjury that I am an authorized representative of the Proposer and that the foregoing statements are true and accurate.

Name of Proposer:

---

Signature of Authorized Representative:

---

Title \_\_\_\_\_

Date \_\_\_\_\_

Exhibit A

Supplementary Contract Conditions



PLAN

CITY OF LONG BEACH  
NORTH SHORE BULKHEADING  
NOT TO SCALE

A= 4000 LF.

B=500 LF

C=1400 LF (SCHOOL . NOT IN CONTRACT)

D=4600 LF.

E=2800 LF (DESIGN IN PROGRESS . NOT IN CONTRACT)

F=1500 LF. (HOSPITAL . NOT IN CONTRACT)

G= 1800 LF

TOTAL = 16000 LF

TOTAL EXCLUDING C, E, AND F = 10,900 LF.





## GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
Executive Director



# EXHIBIT E

## SUPPLEMENTARY CONDITIONS FOR CONTRACTS

### Pursuant to Community Development Block Grant Disaster Recovery Subrecipient Agreement

#### Instructions for Subrecipient

- (1) Pursuant to the Subrecipient Agreement, these Supplementary Conditions shall be incorporated into all contracts, subcontracts and lower-tiered subcontracts issued under the Subrecipient Agreement. Accordingly, Subrecipient shall:
  - a. Incorporate these Supplementary Conditions into all contracts under this Subrecipient Agreement;
  - b. Require all contractors to incorporate these Supplementary Conditions in all subcontracts; and
  - c. Require all contractors to require their subcontractors incorporate these Supplementary Conditions in all lower-tiered subcontracts.
- (2) Subrecipient shall include this package of Supplementary Conditions as part of the bid packages for all contracts, with the following information added to the Introductory Statement:
  - a. Fill in Project, Project Location, Subrecipient name and address, and Contract Number on the first page of the Introductory Statement.
  - b. Fill in Subrecipient name in the signature block on the second page of the Introductory Statement.
  - c. Attach Insurance Requirements for the Project as Attachment A to the Introductory Statement.
- (3) With respect to the Davis-Bacon Act, Subrecipient shall include appropriate wage determinations in all bid packages, as applicable. Such wage determinations shall also be included in contracts between the subrecipient and construction contractors.
- (4) As part of the bidding process, Subrecipient shall collect the following from all bidders (PROC

forms included in Part 6):

- a. Introductory Statement, with bidder's name and address filled in where Contractor's name and address is required, executed by bidder. Per Instruction No. 6, Subrecipient need not execute until a bidder is selected, whereby Subrecipient shall execute with other contract documents.
- b. Form PROC-1 (EEO Staffing Plan);
- c. Form PROC-2 (M/WBE Utilization Plan); and
- d. Form PROC-3 (Request for Waiver Form) if a waiver is sought.

Subrecipient shall appropriately consider in its award decision the information provided in the above referenced forms as indicia of the bidder's ability to comply with related terms of the prospective contract.

(5) Upon execution of a contract, Subrecipient shall execute and date the Introductory Statement, and Contractor shall execute the following forms (included in Part 6):

- a. Form PROC-4 (M/WBE and EEO Policy Statement); and
- b. Form PROC-8 (EEOC Statement).

(6) Following execution of a contract, Contractor shall complete and submit the forms included in Part 6 pursuant to the instructions set forth on the forms. Of note:

- a. The following form is required to be completed weekly and retained:
  - i. Form WH-374 (Federal Payroll Form) as of September 11, 2014, this form is available at <http://www.dol.gov/whd/forms/wh347.pdf>.
- b. The following forms have quarterly submission requirements, as set forth in their instructions (except as indicated below):
  - i. Form PROC-5 (Workforce Employment Utilization);
  - ii. Form PROC-6 (MWBE Quarterly Report);
  - iii. Form ADM-123 (Cumulative Payment Statement);
  - iv. Form ADM-146 (Affirmation of Income Payments to MBE/WBE); and
  - v. Form HUD 60002 (Section 3 Summary Report) which shall be completed quarterly notwithstanding the annual reporting requirement set forth in its instructions.
  - vi. Form HUD 2516 (Contract and Subcontract Activity).

- vii.
  - c. The following form has monthly submission requirements, as set forth in its instructions:
    - i. Form ADM-136 (Monthly Employment Utilization Form).
  - d. The following form has semi-annual submission requirements and should be submitted to Monitoring and Compliance, Governor's Office of Storm Recovery, 25 Beaver Street, New York, NY 10004:
    - i. Form HUD 4710 (Semi-Annual labor Standards Enforcement Report) ó Fillable form available at <http://www.hud.gov/offices/adm/hudclips/forms/hud4.cfm>.
  - e. There is no Form PROC-7.
- (7) Subrecipient shall instruct all contractors to follow these instructions for all subcontracts and lower-tiered subcontracts.
- (8) Due to the funding nature of the Subrecipient Agreement, both federal and state requirements are required to be flowed down to contractors and subcontractors at all tiers as delineated in this Exhibit E. As a result:
- a. References to any federal or state entity, such as the State of New York or HTFC, shall be construed as follows:
    - i. For contracts ó references to any federal or state entity shall refer to the Subrecipient that is procuring goods and/or services under the subject contract. However, the term shall not be construed to refer to the Subrecipient in those instances where a provision relates to a right or activity that is of a governmental nature (e.g., enforcement of laws, audit rights, etc.). If the Subrecipient is a unit of governmental authority (e.g., a state, county, or local government entity), references to the federal or state entity shall be construed to encompass the governmental Subrecipient, as well as applicable federal or state entities.
    - ii. For subcontracts (at all tiers) ó references to any federal or state entity shall refer to the contractor or higher-tiered subcontractor that is procuring goods and/or services under the subject contract. However, the term shall not be construed to refer to the contractor or higher-tiered subcontractor in those instances where a provision relates to a right or activity that is of a governmental nature (e.g., enforcement of laws, audit rights, etc.).
  - b. References to "Subrecipient" and "contractor" shall be construed as follows:
    - i. For contracts ó references to "Subrecipient" shall be deemed to refer to the contractor, and references to "contractor" shall be deemed to refer to the

applicable subcontractor.

- ii. For subcontracts (at all tiers) ó references to õSubrecipientö shall be deemed to refer to the applicable subcontractor, and references to õContractorö shall be deemed to refer to the applicable lower-tiered subcontractor.

**Governor's Office of Storm Recovery  
Supplementary Conditions for Contracts**

**INTRODUCTORY STATEMENT**

Project or Program: [Insert]

Project Location: [Insert]

Subrecipient: [Insert Name and Address]

Contractor: [Insert Name and Address]

Contract Number: [Insert]

Insurance Requirements: See Attachment A to Introductory Statement

Housing Trust Fund Corporation (HTFC or Grantee), acting through the Governor's Office of Storm Recovery (GOSR) has entered into a Subrecipient Agreement with the Subrecipient for a grant of Community Development Block Grant Disaster Recovery (CDBG-DR) funds for purposes of the design and construction of the Project (the Subrecipient Agreement). This grant represents a portion of CDBG-DR funds received or to be received under the Federal CDBG-DR program administered by the U.S. Department of Housing and Urban Development (HUD) to fund necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure, and housing and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared due to Hurricane Sandy and other eligible events (subject to the Federal statutes and regulations governing CDBG grants, as modified by exceptions and waivers previously or hereafter granted by HUD).

Subrecipient is a municipal government or other government agency, which will use its own form contracts and other project agreements for the Project. However, as a condition to receiving CDBG-DR funds for the Project, Subrecipient is required to include these Supplementary Conditions in each contract which it enters into for the applicable project and to require all contractors to include these Supplementary Conditions in every subsequent subcontract and lower-tiered subcontracts so that such provisions are binding upon each contractor, subcontractor and lower-tiered subcontractor. Among other things, as set forth more specifically below, these Supplementary Conditions (a) include GOSR requirements which may not otherwise be included in the contract; (b) define the order of precedence for the interpretation and enforcement of the various parts and provisions of the contract (including these Supplementary Conditions); and (c) add certain other provisions which GOSR deems necessary or desirable for the orderly administration and enforcement of the contract. For purposes of subcontracts, references in these Supplementary Conditions to Subrecipient shall be deemed to refer to Contractor, and references to Contractor shall be deemed to refer to the applicable subcontractor. For purposes of lower-tiered subcontracts, references in these Supplementary Conditions to Subrecipient shall be deemed to refer to the applicable subcontractor, and references to Contractor shall be deemed to refer to the applicable lower-tiered subcontractor.

Accordingly, Subrecipient and Contractor have signed below to evidence their agreement to (a) incorporate into the contract these Supplementary Conditions (which shall be deemed Contract Documents under the contract), (b) include these Supplementary Conditions in all subcontracts under the contract, and (c) require that all subcontractors reproduce these Supplementary Conditions in all lower-tiered subcontracts under the contract. By signing below, contractor agrees to comply with the terms and

conditions of these Supplementary Conditions and to complete and submit the forms contained herein as required under these Supplementary Conditions and the instructions on the forms. Contractor hereby certifies, affirms, stipulates, represents and warrants to all provisions contained herein requiring such certification, affirmation, stipulation, representation or warranty, as applicable.

DATE: \_\_\_\_\_

SUBRECIPIENT  
[INSERT SUBRECIPIENT NAME]

By: \_\_\_\_\_  
Name:  
Title:

CONTRACTOR  
[INSERT CONTRACTOR NAME]

By: \_\_\_\_\_  
Name:  
Title:

Attachment A to Introductory Statement

INSURANCE REQUIREMENTS

[Insert or attach Insurance Requirements]

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PART 1 ORDER OF PRECEDENCE OF DOCUMENTS

*Establishes the priority of the requirements set forth within the Parts of these Supplementary Conditions and the priority of these Supplementary Conditions with respect to the remainder of the contract.*

PART 2 COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY  
SUBRECIPIENT AGREEMENT ó REQUIRED TERMS FOR CONTRACTS  
(óREQUIRED TERMSö)

*Sets forth the required contract language to be inserted into the contract and all subcontracts under the contract to satisfy the requirements of the Subrecipient Agreement.*

PART 3 HUD GENERAL PROVISIONS

*Sets forth the HUD requirements applicable to the contract and all subcontracts under the contract pursuant to the Subrecipient Agreement.*

PART 4 PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN  
REQUIREMENTS AND PROCEDURES FOR CONTRACTS WITH HTFC (óHTFC  
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*Sets forth the HTFC M/WBE requirements applicable to the contract and all subcontracts under the contract pursuant to the Subrecipient Agreement.*

PART 5 STANDARD CLAUSES FOR CONTRACTS WITH THE HOUSING TRUST FUND  
CORPORATION (óHTFC STANDARD CLAUSESö)

*Sets forth the HTFC standard clauses applicable to the contract and all subcontracts under the contract pursuant to the Subrecipient Agreement.*

PART 6 REQUIRED DIVERSITY FORMS AND CONSTRUCTION REQUIREMENTS

- 6A ó HUD Diversity Forms
- 6B ó HTFC Diversity Forms
- 6C ó Construction Requirements and Procedures for Contracts with HTFC

*Includes standard forms required pursuant to the HUD General Provisions, HTFC M/WBE Requirements and HTFC Standard Clauses. Such forms shall be completed and submitted by Contractor as required by their instructions and the terms of these Supplementary Conditions.*



# **PART 1**

## **ORDER OF PRECEDENCE OF DOCUMENTS**

## **PART 1**

### **ORDER OF PRECEDENCE OF DOCUMENTS**

In the event of a conflict between the terms of these Supplementary Conditions and the terms of the remainder of the contract (including any other attachments thereto and amendments thereof), the terms of these Supplementary Conditions shall control.

In the event of a conflict among the requirements found in these Supplementary Conditions, which conflict would make it impossible to comply with all of the requirements set forth herein, the provisions shall be applied with the following priority:

- (1) The Instructions for Subrecipient; then
- (2) The HUD General Provisions (Part 3); then
- (3) The HTFC M/WBE Requirements (Part 4); then
- (4) The HTFC Standard Clauses (Part 5); then
- (5) The Required Contract Terms (Part 2);

and the remaining requirements shall be interpreted in a manner so as to allow for the terms contained therein to remain valid and consistent with such superseding provisions. If any provision of these Supplementary Conditions relates to a matter embraced by another provision(s) of these Supplementary Conditions, but is not in conflict therewith, all such provisions shall apply. Any question as to which requirements control in a particular instance which cannot be resolved by Contractor and Subrecipient shall be submitted in writing (indicating the issue and the applicable provisions) by Subrecipient to GOSR, which shall decide the applicable question.

**PART 2**

**COMMUNITY DEVELOPMENT BLOCK GRANT  
DISASTER RECOVERY SUBRECIPIENT AGREEMENT**

**REQUIRED TERMS FOR CONTRACTS**

## PART 2

### COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY SUBRECIPIENT AGREEMENT

#### REQUIRED TERMS FOR CONTRACTS

##### A. Insurance & Bonding

Contractor shall carry, and shall cause its subcontractors and sub-subcontractors to carry, the insurance coverage set forth in Attachment A - Insurance Requirements attached heretoto the Introductory Statement to these Supplementary Conditions.

##### B. Civil Rights

###### 1. Compliance

Contractor agrees to comply with the New York State Human Rights Law and with Title VI of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

###### 2. Nondiscrimination

Contractor agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCD Act are still applicable.

###### 3. Land Covenants

The Subrecipient Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under the Subrecipient Agreement, Contractor shall cause or shall require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that Grantee and the United States are beneficiaries of, and entitled to enforce, such covenants. To the extent that any such sale, lease or other transfer of land shall occur, Contractor, in undertaking its obligation to carry out the Program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

**4. Section 504**

Contractor agrees to comply with all Federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against individuals with disabilities or handicaps in any federally assisted program. Subrecipient shall provide Contractor with certain guidelines for compliance with that portion of the regulations in force during the term of the contract.

**C. Affirmative Action**

**1. Approved Plan**

Contractor agrees that it shall be committed to carry out, pursuant to Subrecipient's specifications, an Affirmative Action Program in keeping with the principles as provided in Executive Order 11246 of September 24, 1965. Subrecipient shall provide certain Affirmative Action guidelines to Contractor to assist in the formulation of such program. Contractor shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

**2. Minority- and Women-Owned Businesses (M/WBE)**

a. Federal Requirements

Contractor shall comply with the small and minority firms, women's business enterprise, and labor surplus area requirements as set forth at 24 CFR 85.36 or 84.44, as applicable.

Contractor will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in these Required Contract Terms, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians. Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

b. HTFC Requirements

Pursuant to New York State Executive Law Article 15-A ("Article 15-A"), HTFC recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and/or women-owned business enterprises ("M/WBEs") in the performance of certain HTFC-funded subrecipient agreements, and all HTFC-funded contracts and subcontracts. HTFC values affording M/WBEs the opportunity to participate in the performance of these subrecipient agreements, contracts and subcontracts to be awarded under this project. Accordingly, Contractor certifies that it has made and will continue to make good-faith efforts to promote and assist the participation of certified M/WBEs through the use of non-governmental sub-

subrecipients, contractors and their subcontractors at all tiers on this project, in an amount equal to ten percent (15%) minority-owned business enterprises (öMBEö) and ten percent (15%) women-owned business enterprises (öWBEö) of the total dollar value of this project. These participation goals are applicable to the contract as set forth in Part 4 of these Supplementary Conditions and will be monitored by HTFC.

Contractor and its subcontractors at all tiers shall comply with the aforementioned M/WBE requirements as set forth in the Participation by Minority Group Members and Women Requirements and Procedures for Contracts with Housing Trust Fund Corporation, attached hereto as Part 4 of these Supplementary Conditions. In accordance with those requirements, Contractor shall submit and shall require all covered subcontractors at all tiers to submit the required M/WBE documentation, including utilization plans and quarterly reports, to Subrecipient.

Contractor shall provide quarterly reporting of M/WBE data in a form acceptable to Subrecipient, which may require Contractor to consolidate all reports received from subcontractors and lower-tiered subcontractors into a single report or several reports as reasonably requested by Subrecipient with copies of subcontractor and lower-tiered subcontractor M/WBE documentation as supporting documentation. Notwithstanding the provisions of such reports and supporting documentation, Contractor and its subcontractors at all tiers shall maintain copies of all reports and supporting documents as set forth in these Required Terms.

### **3. Equal Employment Opportunity (“EEO”) and Non-Discrimination**

#### **a. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement**

Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that it is an Equal Opportunity or Affirmative Action employer.

#### **b. Non-Discrimination**

Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. Contractor shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

#### **c. HTFC Requirements**

Pursuant to New York State Executive Law Article 15-A (öArticle 15-Aö), HTFC recognizes its obligation under the law to promote opportunities for the employment of minority group members and women in the performance of HTFC-funded contracts.

Contractors and its subcontractors at all tiers shall comply with the equal employment opportunity (öEEOö) requirements found in the Participation by Minority Group Members and Women Requirements and Procedures for Contracts with Housing Trust

Fund Corporation, attached hereto as Part 4 of these Supplementary Conditions. In accordance with those requirements, Contractor shall submit and shall require all covered subcontractors at all tiers to submit the required documentation, including an EEO policy statement, staffing plan, and quarterly reports to Subrecipient. Contractor shall provide quarterly reporting of EEO data in a form acceptable to Subrecipient, which may require Contractor to consolidate all reports received from subcontractors and lower-tiered subcontractors into a single report or several reports as reasonably requested by Subrecipient, with copies of subcontractor and lower-tiered subcontractor EEO documentation as supporting documentation. Notwithstanding the provision of such reports and supporting documentation, Contractor and its subcontractors at all tiers shall maintain copies of all reports and supporting documents as set forth in these Required Terms.

#### **4. Retention**

Contractor shall retain all records pertinent to these Required Terms for a period of five (5) years. The retention period begins on the date of the submission of Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Subrecipient Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then all such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

#### **5. Access to Records**

Contractor shall furnish and cause each of its subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by Subrecipient, Grantee, HUD or its agent, the Comptroller General of the United States, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

### **D. Employment Restrictions**

#### **1. Labor Standards**

Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), and all other applicable Federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of the contract. Contractor agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to Subrecipient and Grantee for review upon request. If Contractor is engaged under a contract in excess of \$2,000.00 for construction, renovation, or repair work financed in whole or in part with assistance provided under the Subrecipient Agreement, Contractor agrees, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, to comply and to cause all

subcontractors engaged under such contracts to comply with Federal requirements adopted by Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve Contractor of its obligation, if any, to require payment of the higher wage. Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

## 2. “Section 3” Clause

### a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided under the Subrecipient Agreement and binding upon Grantee, Subrecipient, Contractor, and any of Contractor’s subcontractors and lower-tiered subcontractors. Failure to fulfill these requirements shall subject Grantee, Subrecipient, Contractor, and any of Contractor’s subcontractors and lower-tiered subcontractors, as well as their successors and assigns, to those sanctions specified by the agreement through which Federal assistance is provided. Contractor certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

Contractor further agrees to comply with these “Section 3” requirements and to include the following language in all subsequent contracts and subcontracts executed under the contract:

“The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

Contractor further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-DR funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-DR funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low-



and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

Contractor certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

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

c. Contracts

Contractor will take appropriate action, pursuant to any such agreement, upon a finding that a subcontractor or lower-tiered subcontractor is in violation of regulations issued by HUD. Contractor will not subcontract with any entity where it has notice or knowledge that the entity has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

d. Reporting

Irrespective of any applicable Federal reporting requirements, Contractor shall submit quarterly reports along with any supporting documentation, in a form acceptable to Subrecipient, of its Section 3 compliance efforts to Subrecipient. Contractor may be required to consolidate all reports received from subcontractors and lower-tiered subcontractors into a single report or several reports as reasonably requested by Subrecipient. Notwithstanding the provision of such reports and supporting documentation, Contractor shall maintain copies of all reports and supporting documents as set forth in these Required Terms.

## **PART 3**

# **HUD GENERAL PROVISIONS**

## PART 3

### HUD GENERAL PROVISIONS

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development (HUD). In addition, Contractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at <http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>.

1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

2. STATUTORY AND REGULATORY COMPLIANCE

Contractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

3. BREACH OF CONTRACT TERMS

The State reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

4. REPORTING REQUIREMENTS

The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the State. The Contractor shall cooperate with all State efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507.

5. ACCESS TO RECORDS

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Contractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

6. MAINTENANCE/RETENTION OF RECORDS

All records connected with this contract will be maintained in a central location and will be maintained for a period of at least four (4) years following the date of final payment and close-out of all pending matters related to this contract.

7. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

8. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD

9. ENERGY EFFICIENCY

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

10. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

12. SECTION 504 OF THE REHABILITATION ACT OF 1973

The Contractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations.

The Contractor agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

13. AGE DISCRIMINATION ACT OF 1975

The Contractor shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

14. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Contractor represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs subject to 2 C.F.R. part 2424.

15. CONFLICTS OF INTEREST

The Contractor shall notify the State as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 (or 84.42, if applicable)). The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the State is able to assess such actual or potential conflict. The Contractor shall provide the State any additional information necessary for the State to fully assess and address such actual or potential conflict of interest. The Contractor shall accept any reasonable conflict mitigation strategy employed by the

State, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

16. SUBCONTRACTING

When subcontracting, the Contractor shall solicit for and contract with such subcontractors in a manner providing for fair competition. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a *brand name* product instead of allowing an *equal* product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

The Contractor represents to the State that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

The Contractor will include these HUD General Provisions in every subcontract issued by it so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

17. ASSIGNABILITY

The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the State.

18. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless the State and its agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Contractor in the performance of the services called for in this contract.

19. COPELAND "ANTI-KICKBACK" ACT  
(Applicable to all construction or repair contracts)

Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by

the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers)

The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. part 5).

All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable Federal laws and regulations pertaining to labor standards.

21. DAVIS-BACON ACT

(Applicable to construction contracts exceeding \$2,000 when required by Federal program legislation)

The Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. part 5).

All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

22. TERMINATION FOR CAUSE (Applicable to contracts exceeding \$10,000)

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the State, become the State's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of the contract by the Contractor, and the State may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the State from the Contractor is determined.

23. TERMINATION FOR CONVENIENCE (Applicable to contracts exceeding \$10,000)

The State may terminate this contract at any time by giving at least ten (10) days notice in writing to the Contractor. If the contract is terminated by the State as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

24. SECTION 503 OF THE REHABILITATION ACT OF 1973  
(Applicable to contracts exceeding \$10,000)

The Contractor shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

Equal Opportunity for Workers With Disabilities

1. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor;
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;



- viii. Activities sponsored by the contractor including social or recreational programs; and
  - ix. Any other term, condition, or privilege of employment.
2. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
  3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
  4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
  5. The Contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
  6. The Contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, 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 order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
25. EXECUTIVE ORDER 11246  
(Applicable to construction contracts and subcontracts exceeding \$10,000)

The Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

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. The Contractor shall take affirmative action to ensure that applicants for employment 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.
- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- D. 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 by the agency contracting officer, advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. 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.
- F. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- G. In the event of the Contractor's non-compliance with the non-discrimination clause of this contract or with any of such rules, 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 in accordance with procedures authorized in Executive Order 11246 and such other sanctions as 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.
- H. Contractor shall incorporate the provisions of A through G above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such subcontractor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, 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 the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests

of the United States.

26. CERTIFICATION OF NONSEGREGATED FACILITIES  
(Applicable to construction contracts exceeding \$10,000)

The Contractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

27. CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS  
(Applicable to contracts exceeding \$100,000)

The Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 1857 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*, and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 15 and 32, as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of

any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.

- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

28. LOBBYING (Applicable to contracts exceeding \$100,000)

The Contractor certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

29. BONDING REQUIREMENTS

(Applicable to construction and facility improvement contracts exceeding \$100,000)

The Contractor shall comply with New York state bonding requirements, unless they have not been approved by HUD, in which case the Contractor shall comply with the following minimum bonding requirements:

- (1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid

guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the Contractor for 100 percent of the contract price.* A performance bond is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.

(3) *A payment bond on the part of the Contractor for 100 percent of the contract price.* A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

30. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968  
(As required by applicable thresholds)

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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 C.F.R. part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

31. FAIR HOUSING ACT

Contractor shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds. Please visit [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_11868.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11868.pdf) for more information

**PART 4**

**PARTICIPATION BY MINORITY GROUP MEMBERS  
AND WOMEN**

**REQUIREMENTS AND PROCEDURES  
FOR CONTRACTS WITH  
HOUSING TRUST FUND CORPORATION**

## PART 4

### PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN

#### REQUIREMENTS AND PROCEDURES FOR CONTRACTS WITH HOUSING TRUST FUND CORPORATION

##### I. General Provisions

- A. The Corporation is required to implement the provisions of New York State (öStateö) Executive Law Article 15-A and 5 NYCRR Parts 142-144 (öMWBE Regulationsö) for all State contracts as defined therein, with a value: (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Housing Trust Fund Corporation (öCorporationö), to fully comply and cooperate with the Corporation in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (öEEOö) and contracting opportunities for certified minority and women-owned business enterprises (öMWBEsö). Contractor's demonstration of ögood faith effortsö pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the öHuman Rights Lawö) or other applicable federal, State or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to section VII of this Part or enforcement proceedings as allowed by the Contract.

##### II. Contract Goals

- A. For purposes of this procurement, the Corporation hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises (öMWBEö) participation, 15% for Minority-Owned Business Enterprises (öMBEö) participation and 15% for Women-Owned Business Enterprises (öWBEö) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on this Contract and achieving the Contract Goals established in section III-A, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>.

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on this Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document ögood faith effortsö to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and



intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Corporation for liquidated or other appropriate damages, as set forth herein.

### **III. Equal Employment Opportunity (EEO)**

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
  1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  2. The Contractor shall submit an EEO policy statement (Form PROC-8) to the Corporation within seventy two (72) hours after the date of the notice by Corporation to award the Contract to the Contractor.
  3. If Contractor or Subcontractor does not have an existing EEO policy statement, the Corporation may provide the Contractor or Subcontractor a model statement (see Form PROC-4 "Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement").
  4. The Contractor's EEO policy statement shall include the following language:
    - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
    - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
    - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

- d. The Contractor will include the provisions of sections (a) through (c) of this subsection and paragraph 5 of this section, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Contract.

C. Form PROC-1- Staffing Plan

To ensure compliance with this section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of this Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the Contract.

D. Form PROC-5 - Workforce Employment Utilization Report (Workforce Report)

1. Once a Contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Corporation of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

Reports should be submitted by email to: [MWBE\\_EEOCreports@stormrecovery.ny.gov](mailto:MWBE_EEOCreports@stormrecovery.ny.gov).

2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
  3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the subject Contract. When the workforce to be utilized on the Contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.
- E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**IV. MWBE Utilization Plan**

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form PROC-2) either prior to, or at the time of, the execution of this Contract.

- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on this Contract pursuant to the prescribed MWBE goals set forth in section III-A of this Part.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of this Contract. Upon the occurrence of such a material breach, the Corporation shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

## **V. Waivers**

- A. For Waiver Requests Contractor should use Form PROC-3 ó Waiver Request.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Corporation shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the Corporation, upon review of the Utilization Plan and updated Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Corporation may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

## **VI. Quarterly MWBE Contractor Compliance Report**

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form PROC-6) to the Corporation by the 10th day following each end of quarter (i.e., March 31st, June 30th, September 30th, and December 31st) over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Reports should be submitted by email to: MWBE\_EEOCreports@stormrecovery.ny.gov.

## **VII. Liquidated Damages - MWBE Participation**

- A. Where the Corporation determines that Contractor is not in compliance with the requirements of this Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Corporation liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
  - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
  - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Agency, Contractor shall pay such liquidated damages to the Corporation within sixty (60) days after they are assessed by the Corporation unless prior to the expiration of such sixtieth (60th) day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to subdivision 8 of

section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Corporation.

## **PART 5**

# **STANDARD CLAUSES FOR CONTRACTS WITH THE HOUSING TRUST FUND CORPORATION**

**PART 5**

**STANDARD CLAUSES FOR CONTRACTS  
WITH THE HOUSING TRUST FUND CORPORATION**

NEW YORK STATE HOUSING FINANCE AGENCY, STATE OF NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE AFFORDABLE HOUSING CORPORATION, STATE OF NEW YORK  
MUNICIPAL BOND BANK AGENCY, AND TOBACCO SETTLEMENT FINANCING  
CORPORATION

641 LEXINGTON AVENUE, NEW YORK, NEW YORK 10022, (212) 688-4000

HOUSING TRUST FUND CORPORATION  
38-40 STATE STREET, ALBANY NEW YORK 12207

May, 2014

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**STANDARD CLAUSES FOR AGENCY CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "Contract") agree to be bound by the following clauses which are hereby made a part of the Contract (the word "Contractor" herein refers to any party other than the State of New York (öStateö), whether a contractor, licenser, licensee, lessor, lessee or any other party):

**1. ACCOUNTING RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance of work done for the Agency or Agencies under this Contract (hereinafter, collectively, "the Records") consistent with generally accepted bookkeeping practices. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The Agency or Agencies involved in this Contract and any person or entity authorized to conduct an examination shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The Agency or Agencies shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the Agenciesö Senior Vice President and Counsel, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Agenciesö or Agenciesö right to discovery in any pending or future litigation.

**2. CONFLICTS OF INTEREST.** The Contractor shall not accept any engagement in conflict with the Agenciesö or Agenciesö interest in the subject matter of this Contract.

The Servicer shall not offer to any employee, member or director of the Agency or Agenciesö any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or

promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

**3. SUBCONSULTANTS.** The Contractor shall not employ, contract with, or use the services of any consultant for the work of this Contract (except such third parties which may be used by the Contractor in the normal course of business, such as couriers, imaging services, etc.) without obtaining the prior written approval of the Agency or Agencies.

**4. NON-ASSIGNABILITY.** This Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent in writing of the Agency or Agencies and any attempts to assign the Contract without the Agency or Agencies' written consent are null and void. However, this Contract shall be binding upon and inure to the benefit of the Agency or Agencies and its successors and assigns.

**5. INDEMNITY.** The Contractor shall indemnify and hold the Agency or Agencies and their employees, officers, Members and Directors (collectively, the "Indemnitees") harmless from and against all claims, demands, liability, loss, cost, damage or expense, including attorney's fees, which may be incurred by the Indemnitees because of negligence or malfeasance on the part of the Contractor arising out of this Contract.

**6. NON-DISCRIMINATION.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. If this a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason or race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. Contractor is subject to fines of \$50 per person per day for any violation of Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

If directed to do so by the State Commissioner of Human Rights ("Commissioner"), the Contractor will send to each labor union to which the Contractor is bound a notice provided by the Commissioner advising of this provision. The Servicer will keep posted in conspicuous places notices of the Commissioner regarding laws against discrimination. The Contractor will state in all advertisements for employees that all qualified applicants will be afforded equal opportunities without discrimination because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status.

If the Contractor has fifteen or more employees, it is an unlawful employment practice for the Contractor to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, or to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, or national origin, or because an individual opposed any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, or because he or she made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under that Title; and that it shall be an unlawful employment practice to print or publish or cause to be printed or published any notice or advertisement relating to employment indicating any preference, limitation, specification, or discrimination on the basis of race, color, religion, sex, or national origin.

If the Contractor has fifteen or more employees, the Contractor: (1) will make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed; (2) will preserve such records for such periods as the Equal Employment Opportunity Commission (EEOC) shall prescribe by regulation; (3) will make such reports therefrom as the EEOC shall prescribe by regulation or order; (4) must post and keep posted in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted a notice prepared or approved by the EEOC setting forth excerpts from, or summaries of, pertinent provisions of Title VII of the Civil Rights Act of 1964, as amended, and information pertinent to the filing of a complaint.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will comply with all non-discriminatory employment practices, will furnish all information deemed necessary by the Commissioner, and will permit the Commissioner access to its records to ascertain compliance. The Contractor will bind all subcontractors hired to perform services in connection with this Contract to the requirements of this section, take such action for enforcement as the Commissioner may direct, and notify the Commissioner if such action results in litigation. This Contract may be terminated by the Agency or Agencies upon the Commissioner's finding of non-compliance with this section, and the Contractor may be declared ineligible for future contracts with an agency of the State or a public authority until the Contractor satisfies the Commissioner of compliance.

**7. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby the Agency or Agencies, is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the Agency or Agencies, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:



(a) the Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Agency or Agencies' contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the Agency or Agencies, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of aö, öbö, and öcö above, in every subcontract. Section 312 does not apply to: (i) work, goods or services unrelated to this Contract; or (ii) employment outside New York State. The Agency or Agencies shall consider compliance by a Contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The Agency or Agencies shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the Agency or Agencies shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

(d) If the procurement of the goods or services provided herein is subject to minority and women-owned participation requirements pursuant to Article 15-A of the Executive Law, the Contractor shall be liable to the Agency or Agencies for liquidated or other appropriate damages and shall provide for other appropriate remedies on account of such breach in the event it is found that the Contractor willfully and intentionally failed to comply with the minority and women-owned participation requirements set-forth in Article 15-A of the Executive Law.

**8. PROPRIETARY INFORMATION.** All memoranda, analyses, spreadsheets and other pertinent documents or writings, including reports and financial statements developed or prepared by, or for, the Contractor in connection with the performance of this Contract are "Proprietary Information" and shall be, and remain, the property of the Agency or Agencies. All original documents constituting Proprietary Information shall be delivered to the Agency or

Agencies by the Contractor, or any subcontractor, or any other person possessing them, upon the termination of this Contract or upon the earlier request of the Agency or Agencies, except that the Contractor may retain copies for its files. Proprietary Information may not be utilized, disclosed or otherwise made available to other persons by the Contractor without the prior written approval of the Agencies' Senior Vice President and Counsel. The provisions of this section shall be in addition to, and not in derogation of, any duty imposed upon the Contractor by any law, regulation or rule governing professional conduct respecting confidentiality.

**9. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices submitted for payment for the sale of goods or services or the lease of real or personal property to the Agency or Agencies must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the Agency or Agencies is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by Agency or Agencies to purchase the goods or services or lease the real or personal property covered by this Contract or lease. The information is maintained by Disbursement Manager at the Agency or Agencies, 641 Lexington Avenue, New York, New York 10022, under the name "Vendor Federal Social Security and Federal Employee Identification Numbers."

**10. CONTRACTUAL RELATIONSHIP.** It is expressly understood that the relationship between the Agency or Agencies and the Contractor is an independent contractual relationship and neither the Contractor, its employees, nor its subcontractors shall be considered employees of the Agency or Agencies for any purpose. Please refer to the following link on the Agency's web site to view each of the Agency's Prompt Payment Policies at <http://www.nyshcr.org/AboutUs/Procurement/Contractinformation.htm> or call the Agencies' Contract Officer at (212) 688-4000.

**11. ENTIRE AGREEMENT.** This Contract constitutes the entire agreement between the Contractor and the Agency or Agencies with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements. In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix I, the terms of this Appendix I shall control.

**12. MODIFICATION.** Waiver, discharge, amendment, supplement, extension or other modification of this Contract shall be subject to prior approval by the Agency or Agencies and may be effected only by an instrument in writing signed by the parties to this Contract.

**13. SECTION HEADINGS.** The caption of sections in this Contract are inserted solely for convenience of reference and are not intended to define, limit, or describe the scope of this Contract or any provision hereof or to otherwise affect this Contract in any way. The section headings shall not be considered in any way in construing this Contract.

**14. COUNTERPARTS.** This Contract may be executed in any number of counterparts. Each such counterpart shall be deemed to be a duplicate original. All such counterparts shall constitute but one and the same instrument.

**15. GOVERNING LAW.** This Contract has been executed and delivered in, and shall be construed and enforced in accordance with the laws of, the State of New York. In the event of conflict between New York State law and federal laws and regulations, the latter shall prevail.

**16. NOTICES.** All notices and other communications given hereunder shall not be effective for any purpose whatsoever unless in writing and delivered by hand or mailed by United States first class registered or certified mail, return receipt requested. Notice shall be deemed to have been given, if delivered by hand, when actually received by the party being notified, or, if mailed, when addressed (a) if to the Contractor, to the attention of the Contractor's authorized signatory of this Contract at the address specified for the Contractor on page one of this Contract, or at such other address as to which the Contractor shall have notified the Agency or Agencies, and (b) if to the Agency or Agencies, to the attention of the Senior Vice President and Counsel, at the address for the Agency or Agencies on page one this Contract, or at such other address of which the Agency or Agencies shall have notified the Contractor.

**17. SEVERABILITY.** All rights, powers and remedies provided herein may be exercised only to the extent that they do not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Contract invalid, unenforceable or not entitled to be recorded, registered, or filed under applicable law. If any provision or term of this Contract or any portion of a provision shall be held to be invalid, illegal or unenforceable, only such provision or part thereof shall be affected by such holding and this Contract shall be construed as if such invalid, illegal or unenforceable provision or part thereof had not been contained herein.

**18. WORKERS' COMPENSATION.** This Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**19. NO ARBITRATION.** Disputes involving this Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**20. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules (öCPLRö), the Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service of process hereunder shall be complete upon the Contractor's actual receipt of process or upon the Agency's or Agencies's receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify the Agency or Agencies, in writing, of each and every change of address to which service of process can be made. Service of process by the Agency or Agencies to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**21. NON-COLLUSIVE BIDDING CERTIFICATION.** If this Contract was awarded based upon the submission of a bid or proposal, the Contractor affirms, under penalty of perjury, that the prices in its bid or proposal were arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, or as to any matter relating to such prices with any other Contractor or with any competitor. The Contractor further affirms that, at the time the Contractor submitted its bid or proposal, an authorized and responsible person executed and delivered a non-collusive bidding certification to the Agency or Agencies on the Contractor's behalf.

**22. LOBBYING REFORM LAW DISCLOSURE.** If the procurement of the goods or services provided herein were applicable to Lobbying Reform Law Disclosure as pursuant to State Finance Law §§139-j and 139-k, the Agency or Agencies reserves the right to terminate this Contract in the event it is found that the certification filed by the Offerer/Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Agency or Agencies may exercise their termination right by providing written notification to the Contractor.

**23. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**24. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245

Telephone: 518-292-5100

Fax: 518-292-5884

Email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development

Division of Minority and Women's Business Development

633 Third Avenue

New York, New York 10017

Telephone: 212-803-2424

Email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or Contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this Contract and agrees to cooperate with the State in these efforts.

**25. GENERAL RESPONSIBILITY LANGUAGE.** The Contractor shall at all times during Contract term remain responsible. The Contractor agrees, if requested by the Agencies, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

For purposes of this Agreement, Contractor responsibility generally means that the Contractor has the integrity to justify the award of public dollars and the capacity to perform the requirements of this Contract fully. In connection herewith, to the extent that the Agencies may make certain determinations with respect to Contractor responsibility, wherein the Agencies determine whether it has reasonable assurances that a Contractor is responsible, is an important part of the procurement process, promoting fairness in contracting, mitigating contract issues, and protecting the Contractor and the Agencies against failed contracts. In making such a responsibility determination, the Agencies shall evaluate the Contractor's responsibility with

respect to four factors: (a) financial and organizational capacity; (ii) legal authority to do business in New York State; (c) integrity; and (iv) previous performance.

**26. SUSPENSION OF WORK (for Non-Responsibility).** The Agencies reserve the right to suspend any or all activities under this Contract, at any time, when the Agency discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Agencies issue a written notice authorizing a resumption of performance under the Contract.

**27. Termination (for Non-Responsibility).** Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency staff, the Contract may be terminated by the Agencies at the Contractor's expense where the Contractor is determined by the Agencies to be non-responsible. In such event, the Agencies may complete the contractual requirements in any manner they deem advisable and pursue available legal or equitable remedies for breach.

**28. Iran Divestment Act.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the Agency.

During the term of the Contract, should the Agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The Agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## PART 6

# REQUIRED DIVERSITY FORMS AND CONSTRUCTION REQUIREMENTS

The following forms shall be completed and submitted by Contractor as required by the instructions set forth on the forms. Of note:

(1) As part of the bidding process, Subrecipient shall collect the following forms from all bidders:

- a. Introductory Statement, with bidder's name and address filled in where Contractor's name and address is required, executed by bidder.
- b. Form PROC-1 (EEO Staffing Plan);
- c. Form PROC-2 (M/WBE Utilization Plan); and
- d. Form PROC-3 (Request for Waiver Form) if a waiver is sought.

Subrecipient shall appropriately consider in its award decision the information provided in the above referenced forms as indicia of the bidder's ability to comply with related terms of the prospective contract.

(2) Upon execution of a contract, Contractor shall execute the following forms:

- a. Form PROC-4 (M/WBE and EEO Policy Statement); and
- b. Form PROC-8 (EEOC Statement).

(3) Following execution of a contract, Contractor shall complete and submit the following forms.

Of note:

- a. The following form is required to be completed weekly and retained:
  - i. Form WH-374 (Federal Payroll Form) As of September 11, 2014, this form is available at <http://www.dol.gov/whd/forms/wh347.pdf>.
  - ii. Davis-Bacon Poster WH-1321 - Every employer performing work covered by the labor standard of The Davis-Bacon and related Acts shall post a notice (including any applicable wage determination) at the site of the work in a prominent and accessible place where it may be easily seen employees. This form/poster is available at:  
<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf> .
- b. The following forms have quarterly submission requirements, as set forth in their instructions (except as indicated below):
  - i. Form PROC-5 (Workforce Employment Utilization);

- ii. Form PROC-6 (MWBE Quarterly Report);
  - iii. Form ADM-123 (Cumulative Payment Statement);
  - iv. Form ADM-146 (Affirmation of Income Payments to MBE/WBE); and
  - v. Form HUD 60002 (Section 3 Summary Report) ó which shall be completed quarterly notwithstanding the annual reporting requirement set forth in its instructions.
  - vi. Form HUD 2516 (Contract and Subcontract Activity).
- c. The following form has monthly submission requirements, as set forth in its instructions:
- i. Form ADM-136 (Monthly Employment Utilization Form).
- d. :
- e. The following form has semi-annual submission requirements and should be submitted to Monitoring and Compliance, Governorø Office of Storm Recovery, 25 Beaver Street, New York, NY 10004:
- i. Form HUD 4710 (Semi-Annual labor Standards Enforcement Report) ó  
Fillable form available at  
<http://www.hud.gov/offices/adm/hudclips/forms/hud4.cfm>.
- f. There is no Form PROC-7.



## **PART 6A. HUD Diversity Forms**

# Contract and Subcontract Activity

Public Reporting Burden for this collection of information is estimated to average .50 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. This information is voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Executive Order 12421 dated July 14, 1983, directs the Minority Business Development Plans shall be developed by each Federal Agency and that these annual plans shall establish minority business development objectives. The information is used by HUD to monitor and evaluate MBE activities against the total program activity and the designated minority business enterprise (MBE) goals. The Department requires the information to provide guidance and oversight for programs for the development of minority business enterprise concerning Minority Business Development. If the information is not collected HUD would not be able to establish meaningful MBE goals nor evaluate MBE performance against these goals. While no assurances of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.

**Privacy Act Notice** - The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. It will not be disclosed or released outside the United States Department of Housing and Urban Development without your consent, except as required or permitted by law.

1. Grantee/Project Owner/Developer/Sponsor/Builder/Agency	Check if: PHA <input type="checkbox"/> IHA <input type="checkbox"/>	2. Location (City, State, ZIP Code)
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3a. Name of Contact Person	3b. Phone Number (Including Area Code)	4. Reporting Period <input type="checkbox"/> Oct. 1 - Sept. 30 (Annual-FY)	5. Program Code (Not applicable for CPD programs.) See explanation of codes at bottom of page. Use a separate sheet for each program code.	6. Date Submitted to Field Office
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Grant/Project Number or HUD Case Number or other identification of property, subdivision, dwelling unit, etc.  7a.	Amount of Contract or Subcontract  7b.	Type of Trade Code (See below) 7c.	Contractor or Subcontractor Business Racial/Ethnic Code (See below) 7d.	Woman Owned Business (Yes or No) 7e.	Prime Contractor Identification (ID) Number  7f.	Sec. 3  7g.	Subcontractor Identification (ID) Number  7h.	Sec. 3  7i.	Contractor/Subcontractor Name and Address 7j.																
									Name	Street	City	State	Zip Code												

- |  |  |  |  |
|--|--|--|--|
| <b>CPD:</b><br>1 = New Construction<br>2 = Education/Training<br>3 = Other | <b>7c: Type of Trade Codes: Housing/Public Housing:</b><br>1 = New Construction<br>2 = Substantial Rehab.<br>3 = Repair<br>4 = Service<br>5 = Project Mangt.<br>6 = Professional<br>7 = Tenant Services<br>8 = Education/Training<br>9 = Arch./Engrg. Appraisal<br>0 = Other | <b>7d: Racial/Ethnic Codes:</b><br>1 = White Americans<br>2 = Black Americans<br>3 = Native Americans<br>4 = Hispanic Americans<br>5 = Asian/Pacific Americans<br>6 = Hasidic Jews | <b>5: Program Codes</b><br>(Complete for Housing and Public and Indian Housing programs only):<br>1 = All insured, including Section 8<br>2 = Flexible Subsidy<br>3 = Section 8 Noninsured, Non-HFDA<br>4 = Insured (Management)<br>5 = Asian/Pacific Americans<br>5 = Section 202<br>6 = HUD-Held (Management)<br>7 = Public/Indian Housing |
|--|--|--|--|

This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multifamily Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD-60002 to report employment and training opportunities data. Form HUD-2516 is to be

completed for public and Indian housing and most community development programs. Form HUD-60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3.

A Section 3 contractor/subcontractor is a business concern that provides economic opportunities to low- and very low-income residents of the metropolitan area (or nonmetropolitan county), including a business concern that is 51 percent or more owned by low- or very low-income residents; employs a substantial number of low- or very low-income residents; or provides subcontracting or business development opportunities to businesses owned by low- or very low-income residents. Low- and very low-income residents include participants in Youthbuild programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms %low-income persons+ and %very low-income persons+ have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary

may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons means low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Submit two (2) copies of this report to your local HUD Office within ten (10) days after the end of the reporting period you checked in item 4 on the front.

Complete item 7h. only once for each contractor/subcontractor on each semi-annual report.

Enter the prime contractor's ID in item 7f. for all contracts and subcontracts. Include only contracts executed during this reporting period. PHAs/IHAs are to report all contracts/subcontracts.

### Community Development Programs

**1. Grantee:** Enter the name of the unit of government submitting this report.

**3. Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.

**7a. Grant Number:** Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.

**7b. Amount of Contract/Subcontract:** Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number is provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.

**7c. Type of Trade:** Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number is provided in 7f., the type of trade code would be for the subcontractor only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education/training activities.

**7d. Business Racial/Ethnic/Gender Code:** Enter the numeric code which indicates the racial/ethnic /gender character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Enter this information for each

Previous editions are obsolete.

firm receiving contract/subcontract activity only one time on each report for each firm.

### Multifamily Housing Programs

**1. Grantee/Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report.

**3. Contact Person:** Same as item 3 under CPD Programs.

**4. Reporting Period:** Check only one period.

**5. Program Code:** Enter the appropriate program code.

**7a. Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.

**7b. Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.

**7c. Type of Trade:** Same as item 7c. under CPD Programs.

**7d. Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

### Public Housing and Indian Housing Programs

PHAs/IHAs are to report all contracts/subcontracts. Include only contracts executed during this reporting period.

**1. Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report. Check box as appropriate.

**3. Contact Person:** Same as item 3 under CPD Programs.

**4. Reporting Period:** Check only one period.

**5. Program Code:** Enter the appropriate program code.

**7a. Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.

**7b. Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.

**7c. Type of Trade:** Same as item 7c. under CPD Programs.

**7d. Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

# Section 3 Summary Report

## Economic Opportunities for Low- and Very Low-Income Persons

U.S. Department of Housing  
and Urban Development  
Office of Fair Housing  
and Equal Opportunity

OMB Approval No. 2529-0043  
(exp. 8/31/2007)

HUD Field Office:
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See back of page for Public Reporting Burden statement

1. Recipient Name & Address: (street, city, state, zip)	2. Federal Identification: (contract/award no.)	3. Dollar Amount of Award:
	4. Contact Person:	5. Phone: (include area code)
	6. Reporting Period:	7. Date Report Submitted:
8. Program Code: *	(Use a separate sheet for each program code)	9. Program Name:

### Part I: Employment and Training (\*\* Include New Hires in columns E & F.)

A Job Category	B Number of New Hires	C Number of New Hires that are Sec. 3 Residents	D % of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	E** % of Total Staff Hours for Section 3 Employees and Trainees	F** Number of Section 3 Employees and Trainees
Professionals					
Technicians					
Office/Clerical					
Construction by Trade (List Trade)					
Trade					
Trade					
Trade					
Trade					
Other (List)					
<b>Total</b>					

**\*Program Codes**

1 = Flexible Subsidy	2 = Section 202/811	3 = Public/Indian Housing A = Development, B = Operation C = Modernization	4 = Homeless Assistance 5 = HOME 6 = HOME-State Administered 7 = CDBG-Entitlement	8 = CDBG-State Administered 9 = Other CD Programs 10= Other Housing Programs
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**Part II: Contracts Awarded**

1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$	
B. Total dollar amount of contracts awarded to Section 3 businesses	\$	
C. Percentage of the total dollar amount that was awarded to Section 3 businesses		%
D. Total number of Section 3 businesses receiving contracts		

2. Non-Construction Contracts:

A. Total dollar amount of all non-construction contracts awarded on the project/activity	\$	
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$	
C. Percentage of the total dollar amount that was awarded to Section 3 businesses		%
D. Total number of Section 3 businesses receiving non-construction contracts		

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program, which promotes the award of contracts to business concerns that meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other; describe below

Public reporting burden for this collection of information is estimated to average 2 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. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as a self-monitoring tool. The data is entered into a data base and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD-60002, **Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.**

**Instructions:** This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian Housing programs** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F) or the number of new hires utilized on the Section 3 covered project (columns B, C and F). Part II of the form relates to **contracting**, and Part III summarizes recipients' efforts to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.\* A recipient of Section 3 covered assistance shall submit two copies of this report to the local HUD Field Office. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office name forwarding the Section 3 report.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.

Submit two (2) copies of this report to the to the HUD Field Office of Fair Housing and Equal Opportunity, Program Operations and Compliance Center Director, at the same time the performance report is submitted to the program office. For those programs where such a report is not required, the Section 3 report is submitted by January 10. Include only contracts executed during the reporting period specified in item 8. PHAs/HAs are to report all contracts/subcontracts.

\* The terms **low-income persons** and **very low-income persons** have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of the HUD Program corresponding with the %Program Code+in number 8.

**Part I: Employment and Training Opportunities**

**Column A:** Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of %Other+ includes occupations such as service workers.

**Column B:** Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New Hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column C:** Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column D:** Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

**Column E:** Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

**Column F:** Enter the number of Section 3 residents that were employed and trained in connection with this award.

**Part II: Contract Opportunities**

**Block 1: Construction Contracts**

Item A: Enter the total dollar amount of all contacts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

**Block 2: Non-Construction Contracts**

Item A: Enter the total dollar amount of all contacts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

**Part III: Summary of Efforts - Self-explanatory**

smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Agency Name:	Agency Type: <small>(e.g., COBG, PHA, TDHE/HA)</small>	State:	LR2000 Agency ID #: <small>(HUD Use Only)</small>
<b>Period Covered: Check One and Enter Year(s)</b>			
<input type="checkbox"/> <b>Period 1:</b> October 1, ____ to March 31, ____	<input type="checkbox"/> <b>Period 2:</b> April 1, ____ to September 30, ____		
Agency Contact Person:	Agency Contact Phone/E-mail:		

**PART I - CONTRACTING ACTIVITY\***  
*Pertains ONLY to projects awarded during the reporting period.*

1. Number of prime contracts subject to the Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA) awarded this period   
 Note: Do not include contracts included in previous semi-annual reports

2. Total dollar amount of prime contracts reported in item 1 above \$

3. List for each contract awarded this period:

Project Name/Number	Contract Amount	Wage Decision Number	Wage Decision Lock-In Date
<small>EXAMPLE:</small> "Boy's Club Renovation # CD54005-65"	"\$0,000,000.00"	"FL040001/Mod 3, 6/25/04, Building"	"07/02/04 bid open date" ◀ Lock

\*Use additional pages if necessary

**WHAT IS THE LOCK-IN DATE?** For contracts entered into pursuant to competitive bidding procedures, the bid opening date "locks-in" the wage decision **provided** that the contract is awarded within 90 days. If the contract is awarded more than 90 days after bid opening, the contract award date "locks-in" the wage decision. For contracts, purchase orders or other agreements for which there is no bid opening or award date, use the construction start date as the lock-in date. However, for projects receiving assistance under Section 8 of the U.S. Housing Act of 1937 or contracts involving a project wage determination, the lock-in rules may vary from above. See Department of Labor Regulations, 29 CFR, Part 1, Section 1.6 and/or HUD Handbook 1344.1, or consult the HUD Labor Relations staff.

**WHAT IT ISN'T:** Do not use the wage decision publication date, unless that happens to correspond to one of the trigger events described above. If you are not sure about any of this, please feel free to contact the Labor Relations staff in your state or region.



Agency Name:	Agency Type: <small>(e.g., CDBG, PHA, TDHE/HA)</small>	State:	LR2000 Agency ID #: <small>(HUD Use Only)</small>
<b>Period Covered: Check One and Enter Year(s)</b>			
<input type="checkbox"/> <b>Period 1:</b> October 1, ____ to March 31, ____		<input type="checkbox"/> <b>Period 2:</b> April 1, ____ to September 30, ____	
Agency Contact Person:		Agency Contact Phone/E-mail:	

**PART II - ENFORCEMENT ACTIVITY\***

*Pertains to all projects, not just contract(s) awarded during the reporting period.*

4. Number of employers against whom **complaints** were received (list employers and projects involved below):

Employer
Project(s)

5. (a) Number of cases (employers) referred to HUD Labor Relations for investigation or §5.11 hearing (list referrals below):

(b) Number of cases (employers) referred to the Department of Labor (DOL) for investigation or §5.11 hearing (list referrals below):

Employer
Project
HUD or DOL
Invest. Or Hearing

6. (a) **Number of workers for whom wage restitution was collected/disbursed:**   
*Report only once; if you previously reported workers for whom restitution was collected, do not report the same workers when funds are disbursed. Include workers to whom restitution was paid directly by the employer.*

(b) **Total amount of straight time wage restitution collected/disbursed during this period:** \$  
*Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.*

(c) **Total amount of CWHHSA overtime wage restitution collected/disbursed during this period:** \$  
*Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.*

(d) **Total amount of liquidated damages collected:** \$

\* Use additional pages if necessary



Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

All Federal agencies administering programs subject to Davis-Bacon wage provisions are required by Department of Labor (DOL) regulations (29 CFR Part 5, Section 5.7(b)) to submit a report of all new covered contracts/projects and all enforcement activities each six months. In order for HUD to comply with this requirement, it must collect contract and enforcement information from local agencies that administer HUD-assisted programs subject to Davis-Bacon requirements. HUD requests that local agencies complete and submit a Semi-annual Enforcement Report each six months.

Local agencies and HUD must retain a copy of the Semi-annual Enforcement Report in its files.

*Please follow these instructions while compiling the **Semi-Annual Labor Standards Enforcement Report for Local Contracting Agencies (HUD Programs) (form HUD-4710)**.*

### **Introduction**

Department of Labor (DOL) Regulations 29 CFR §5.7(b) require Federal agencies administering programs subject to Davis-Bacon and Related Act (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards to furnish a Semi-Annual Labor Standards Enforcement Report to the Administrator of the Wage and Hour Division. Some HUD programs are administered by state and local agencies for labor standards compliance. HUD must collect information from such agencies in order to capture enforcement activities for all HUD programs in its reports to DOL.

**Reporting Periods: Period 1 October 1 through March 31**

**Period 2 April 1 through September 30**

**Report Format:** Each agency report consists of two parts:

**Part I** concerns contracting activity for work awarded during the reporting period;

**Part II** concerns enforcement activity for all contracts, regardless of the award date.

The HUD Labor Relations staff for your area will send a courtesy reminder shortly before the due date about preparing the report and will remind you of the date your report is due. However, you should maintain accurate records throughout the year of relevant contract information so that you can submit the report timely.

### **Definitions and Guidance**

**Part I - Contracting Activity** - This part concerns only contracts that were **awarded** during this period. *Do not* include contracts that were awarded prior to this period even though the contracts may still be underway. *Do* include work subject to purchase order or other form of agreement, even if there is no formal contract award.

**Item 1.** Enter the total number of prime contracts subject to DBRA/CWHSSA **awarded** during this period.  
Track contracts by award or start of construction - **do not** track by bid opening date. Public Housing Authorities (PHAs), Tribally-designated Housing Entities (TDHEs)/Indian Housing Authorities (IHAs): Include force account work that is subject to DBRA/CWHSSA.

**Item 2.** Enter the total dollar amount of the contracts and/or PHA/TDHE/IHA force account work reported in Item 1.



**Item 3.** List each project/contract name, brief descriptive information, number or unique identifier, dollar amount, the wage decision and modification number in the contract, bid opening date, contract award date, and construction start date. Identify which milestone date triggered the wage decision "lock-in" (bid opening date, contract award date or start of construction date, as appropriate). If the project was not subject to sealed bids, indicate "NA" for bid opening date and proceed to identify the other dates.

**Part II - Enforcement Activity** - This part concerns *all* enforcement activity no matter when the contract was awarded or construction began.

**Item 4.** Enter the number of **employers** (contractors, subcontractors, lower-tier subcontractors) against whom complaints were received during the report period. List the names of the employers against whom complaints were received and the projects involved.

**Item 5.** Enter the number of employers that were referred to HUD Labor Relations or DOL staff for investigations, for hearings on appeal and/or debarment hearings. List the employer, project, and agency (HUD or DOL) to which the case was referred, and the reason for referral - investigation, appeal hearing (DOL Regulations 29 CFR Part 5, Section §5.11) and/or debarment (DOL Regulations 29 CFR Part 5, Section §5.12) hearing.

**Item 6.** Enter information relative to wage restitution that was **collected and/or disbursed** during the report period. This includes restitution disbursed by the agency; restitution reported on certified payroll correction reports, amounts collected but not disbursed because workers could not be found. Report straight time wage restitution separate from Contract Work Hours and Safety Standards Act (CWHSSA) overtime wage restitution. Also list liquidated damages collected for CWHSSA overtime violations.

## **PART 6B. HTFC Diversity Forms**

**EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN**  
 Submit with Bid or Proposal – Instructions on page 2

<b>Solicitation/Program Name:</b>	<b>Report includes:</b> Workforce to be utilized on this contract Contractor/Subcontractor's total work force
<b>Offeror's Name:</b>	<b>Reporting Entity:</b> Contractor Subcontractor Subcontractor's name _____
<b>Offeror's Address:</b>	

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Workforce by Gender		Work force by Race/Ethnic Identification										Disabled		Veteran	
		Total Male (M)	Total Female (F)	White		Black		Hispanic		Asian		Native American					
		(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Officials/Administrators																	
Professionals																	
Technicians																	
Service Maintenance Workers																	
Office/Clerical																	
Skilled Craft Workers																	
Paraprofessionals																	
Protective Service Workers																	
Totals																	

<b>PREPARED BY (Signature):</b>	<b>TELEPHONE NO.:</b>	<b>DATE:</b>
	<b>EMAIL ADDRESS:</b>	
<b>NAME AND TITLE OF PREPARER (Print or Type):</b>		<b>SUBMIT COMPLETED WITH BID OR PROPOSAL</b>

**General instructions:** All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form for the contractor's or subcontractor's total work force.

**Instructions for completing:**

1. Enter the Solicitation number or RFP number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Offeror's total workforce.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading Workforce by Gender
6. Break down the total work force by race/ethnic background and enter under the heading Work force by Race/Ethnic Identification. Contact the Designated Contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**OTHER CATEGORIES**

- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male (M) or Female (F)

## M/WBE UTILIZATION PLAN

**INSTRUCTIONS:** This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

**Offeror's Name:**

**Federal Identification Number:**

**Address:**

**Solicitation Number:**

**City, State, Zip Code:**

**Telephone Number:**

**Region/Location of Work:**

**M/WBE Goals in the Contract:** MBE    %    WBE    %

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts / Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
B.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

**6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (PROC-5).**

<p><b>PREPARED and APPROVED BY:</b></p> <p><b>NAME AND TITLE OF PREPARER (Print or Type):</b></p> <p><b>Signature:</b> _____ Authorized Signature</p> <p><b>DATE:</b></p> <p><b>TELEPHONE NO:</b></p> <p><b>EMAIL ADDRESS:</b></p> <p><b>SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.</b></p>	<p><b>FOR AGENCY USE ONLY</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;"><b>REVIEWED BY:</b></td> <td style="width: 30%;"><b>DATE:</b></td> </tr> </table> <p><b>UTILIZATION PLAN APPROVED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO    Date:</p> <p><b>Contract No:</b></p> <p><b>Contract Award Date:</b></p> <p><b>Estimated Date of Completion:</b></p> <p><b>Amount Obligated Under the Contract:</b></p> <p><b>NOTICE OF DEFICIENCY ISSUED:</b>    <input type="checkbox"/> YES    <input type="checkbox"/> NO Date: _____</p> <p><b>NOTICE OF ACCEPTANCE ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____</p>	<b>REVIEWED BY:</b>	<b>DATE:</b>
<b>REVIEWED BY:</b>	<b>DATE:</b>		

**REQUEST FOR WAIVER FORM**

<b>INSTRUCTIONS: SEE PAGE 2 OF THIS ATTACHMENT FOR REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS.</b>			
<b>Offeror/Contractor Name:</b>		<b>Federal Identification No.:</b>	
<b>Address:</b>		<b>Solicitation/Contract No.:</b>	
<b>City, State, Zip Code:</b>		<b>M/WBE Goals: MBE      %      WBE      %</b>	
By submitting this form and the required information, the offeror/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.			
<b>Contractor is requesting a:</b>			
1. <input type="checkbox"/> <b>MBE Waiver</b> – A waiver of the MBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial			
2. <input type="checkbox"/> <b>WBE Waiver</b> – A waiver of the WBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial			
3. <input type="checkbox"/> <b>Waiver Pending ESD Certification</b> – (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with Empire State Development.)    Date of such filing with Empire State Development: _____			
<b>PREPARED BY (Signature):</b>		<b>Date:</b>	
SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.			
<b>Name and Title of Preparer (Printed or Typed):</b>		<b>Telephone Number:</b>	<b>Email Address:</b>
<b>Submit with the bid or proposal or if submitting after award, submit to the MWBE Program Unit:</b>		***** FOR AGENCY USE ONLY *****	
New York State Governor's Office of Storm Recovery 25 Beaver Street, 5 <sup>th</sup> Floor New York, NY 10004  Email to: MWBE_EEOCreports@stormrecovery.ny.gov		<b>REVIEWED BY:</b>	<b>DATE:</b>
		<b>Waiver Granted:</b> <input type="checkbox"/> YES <b>MBE:</b> <input type="checkbox"/> <b>WBE:</b> <input type="checkbox"/>	
		<input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver <input type="checkbox"/> ESD Certification Waiver <input type="checkbox"/> *Conditional <input type="checkbox"/> Notice of Deficiency Issued _____ <b>*Comments:</b>	

## REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

**When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1 – 11, as listed below. If box # 3 has been checked above, please see item 11. Copies of the following information and all relevant supporting documentation must be submitted along with the request:**

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.
6. Provide copies of responses made by certified M/WBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of offeror/contractor's representative authorized to discuss and negotiate this waiver request.
11. Copy of notice of application receipt issued by Empire State Development (ESD).

**Note:**

Unless a Total Waiver has been granted, Offeror/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract, as deemed appropriate by the contracting entity, to determine M/WBE compliance.



**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL  
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_, the (awardee/contractor)\_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered for (name agency/ies or project location)\_\_\_\_\_

**MWBE**

**EEO**

This organization will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from Agency(ies) and solicit bids from them directly.
- (3) Ensure that plans, specifications, requests for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhance participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative for a statement that it will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_\_

By \_\_\_\_\_

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

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison

He/she is responsible for administering the Minority and Women-Owned Business Enterprises-Equal Employment Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

30% Minority and Women's Business Enterprise Participation

15% Minority Business Enterprise Participation

15% Women's Business Enterprise Participation

**EEO Contract Goals**

\_\_\_% Minority Labor Force Participation

\_\_\_% Female Labor Force Participation

## WORKFORCE EMPLOYMENT UTILIZATION

<b>Contract No.:</b>	<b>Reporting Entity:</b> Contractor Subcontractor	<b>Reporting Period:</b> January 1, 20__ - March 31, 20__ April 1, 20__ - June 30, 20__ July 1, 20__ - September 30, 20__ October 1, 20__ - December 31, 20__
<b>Contractor's Name:</b>		<b>Report includes:</b> Work force to be utilized on this contract Contractor/Subcontractor's total work force
<b>Contractor's Address:</b>		

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran				
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		(M)	(F)	(M)	(F)	
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

<b>PREPARED BY (Signature):</b>	<b>TELEPHONE NO.:</b>	<b>DATE:</b>
	<b>EMAIL ADDRESS:</b>	
<b>NAME AND TITLE OF PREPARER (Print or Type):</b>	<b>Submit completed form to:</b> <b>NYS Governor's Office of Storm Recovery,</b> <b>25 Beaver Street, 5<sup>th</sup> Floor, New York, NY 10004, or</b> <b>MWBE_EEOreports@stormrecovery.ny.gov</b>	

**General Instructions:** The work force utilization is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report. Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30 and 12/31 and submitted to the M/WBE Program Management Unit within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated.

**Instructions for completing:**

1. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
2. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
3. Check off the box that corresponds to the reporting period for this report.
4. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
5. Enter the total work force by EEO job category.
6. Break down the total work force by gender and enter under the heading Work force by Gender
7. Break down the total work force by race/ethnic background and enter under the heading Work force by Race/Ethnic Identification  
Contact the M/WBE Program Management Unit at (518) 474-5513 if you have any questions.
8. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
9. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

**WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

**BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.

**HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

**ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

**NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**OTHER CATEGORIES**

É DISABLED INDIVIDUAL

- any person who:
- has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.

É VIETNAM ERA VETERAN  
É GENDER

a veteran who served at any time between and including January 1, 1963 and May 7, 1975.  
Male or Female

Failure to submit this form will result in non-compliance

Is this a final report? Check one.  
 Yes \_\_\_\_\_ No \_\_\_\_\_

M/WBE Quarterly Report  
 of

NYS AGENCY/AGENCIES Contract No. \_\_\_\_\_ Project No. \_\_\_\_\_

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor on this project. The payments as shown are in compliance with contract documents for the above reference project.

<b>Contractor's Name and Address</b>		<b>Federal ID#</b>		<b>Goals/Dollar Amount</b> MBE ___% = \$ _____ WBE ___% = \$ _____		<b>Contract Type:</b>				
		<b>Project Completion Date</b>		<b>Work Location</b>		<b>Paid to Contractor this Quarter:</b> <b>Total Paid to Contractor to Date:</b> <b>Reporting Period:</b> <input type="checkbox"/> 1 <sup>st</sup> Quarter (4/1-6/30) <input type="checkbox"/> 3 <sup>rd</sup> Quarter (10/1-12/31) <input type="checkbox"/> 2 <sup>nd</sup> Quarter (7/1-9/30) <input type="checkbox"/> 4 <sup>th</sup> Quarter (1/1-3/31)				
<b>M/WBE Subcontractor/Vendor</b>	<b>Product Code*</b>	<b>Work Status this Report</b>	<b>Total Subcontractor Contract Amount</b>		<b>Payments this Quarter</b>		<b>Previous Payments</b>		<b>Total Payments Made to Date</b>	
			<b>MBE</b>	<b>WBE</b>	<b>MBE</b>	<b>WBE</b>	<b>MBE</b>	<b>WBE</b>	<b>MBE</b>	<b>WBE</b>
Name: Fed ID#:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
Name: Fed ID#:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
Name: Fed ID#:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
Name: Fed ID#:		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete								
<b>Total:</b>										

\*See Next Page for Product Codes

Date: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_

Use the following codes in the Product Code column to indicate the category of work for which the M/WBE was utilized:

**PRODUCT CODE KEY:**

<b>A</b>	<b>Agriculture/Landscaping (e.g., all forms of landscaping services)</b>
<b>B</b>	<b>Mining (e.g., Geological Investigation)</b>
<b>C</b>	<b>Construction</b>
<b>C15</b>	<b>Building Construction – General Contractors</b>
<b>C16</b>	<b>Heavy Construction (e.g., highway, pipe laying)</b>
<b>C17</b>	<b>Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)</b>
<b>D</b>	<b>Manufacturing (production of goods)</b>
<b>E</b>	<b>Transportation, Communication and Sanitary Services (e.g., Delivery services, warehousing, broadcasting and cable systems)</b>
<b>F/G</b>	<b>Wholesale/Retail Goods (e.g., gravel, hospital supplies and equipment, food stores, computer stores, office supplies)</b>
<b>G52</b>	<b>Construction Materials (e.g., lumber, paint, lawn supplies)</b>
<b>H</b>	<b>Financial, Insurance and Real Estate Services</b>
<b>I</b>	<b>Services</b>
<b>I73</b>	<b>Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)</b>
<b>I81</b>	<b>Legal Services</b>
<b>I82</b>	<b>Educational Services (e.g., AIDS education, automobile safety, tutoring, public speaking)</b>
<b>I83</b>	<b>Social Services (e.g., counselors, vocational training, child care)</b>
<b>I87</b>	<b>Engineering, architectural, accounting, research, management and related services</b>



New York State  
**Homes & Community Renewal**  
www.nyshcr.org

**EEOC Statement**

of the

New York State Housing Finance Agency,  
State of New York Mortgage Agency,  
New York State Affordable Housing Corporation,  
State of New York Municipal Bond Bank Agency,  
Tobacco Settlement Financing Corporation and  
Housing Trust Fund Corporation  
(individually, "Agency" and collectively, "Agencies")

It is the goal of the Agencies to ensure compliance with the federal Equal Employment Opportunity Act of 1972, as amended. Respondents with fifteen (15) or more employees responding to this solicitation, must submit a statement disclosing whether the Respondent: (a) is currently operating under or negotiating, or has at some time in the last five (5) years operated under or negotiated, a conciliation agreement with the Equal Employment Opportunity Commission ("EEOC"); (b) has been, at some time in the last five (5) years, or is currently the subject of a civil action brought against it by the EEOC; (c) has been, at some time in the last five (5) years, or is currently the subject of an action brought against it by the EEOC for permanent, temporary or preliminary relief; (d) has operated, at some time in the last five (5) years, or is currently operating under an order of a court to take affirmative action as a result of a civil action brought against it by the EEOC.

Please answer the above question either in the affirmative or negative.

\_\_\_\_\_ Respond YES or NO.

If YES, provide explanation:

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\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date of Respondent's Signature

\_\_\_\_\_  
Print Name of Respondent



**PART 6C. Construction Requirements and  
Procedures for Contracts with HTFC**



New York State  
**Homes & Community Renewal**  
 Office of Fair Housing and Equal Opportunity  
 Web Site: [www.nyshcr.org](http://www.nyshcr.org)

**CUMULATIVE PAYMENT STATEMENT**  
 (Instructions on Reverse Side)

Contractors Name and Address:	Federal ID #	Goals		Reporting Period	
		MBE __%	WBE __%	Quarter	Year
	SHARS/Project #	Work Location			
<i>Name of Firm and Address (List All Firms)</i>	<i>Type of Service Provided (Select only one)</i>	NYS Certified MBE	WBE	Payment This period	Contract Amount
Federal ID#	<input type="checkbox"/> Construction <input type="checkbox"/> Supplier <input type="checkbox"/> Consultant Service <input type="checkbox"/> Service/Commodity <input type="checkbox"/> Section 3	<input type="checkbox"/>	<input type="checkbox"/>	No Payment <input type="checkbox"/>	
Federal ID#	<input type="checkbox"/> Construction <input type="checkbox"/> Supplier <input type="checkbox"/> Consultant Service <input type="checkbox"/> Service/Commodity <input type="checkbox"/> Section 3	<input type="checkbox"/>	<input type="checkbox"/>	No Payment <input type="checkbox"/>	
Federal ID#	<input type="checkbox"/> Construction <input type="checkbox"/> Supplier <input type="checkbox"/> Consultant Service <input type="checkbox"/> Service/Commodity <input type="checkbox"/> Section 3	<input type="checkbox"/>	<input type="checkbox"/>	No Payment <input type="checkbox"/>	
Federal ID#	<input type="checkbox"/> Construction <input type="checkbox"/> Supplier <input type="checkbox"/> Consultant Service <input type="checkbox"/> Service/Commodity <input type="checkbox"/> Section 3	<input type="checkbox"/>	<input type="checkbox"/>	No Payment <input type="checkbox"/>	

\_\_\_\_\_  
 Signature of Company Official

\_\_\_\_\_  
 Print Name of Company Official

\_\_\_\_\_  
 Date

**INSTRUCTIONS FOR FILING CUMULATIVE PAYMENT STATEMENT**

This document pertains to **HCR funding only**. The form is to be completed and signed by the Company Official and submitted by **the 10<sup>th</sup> of each quarter**. The form must include **ALL** (e.g. MBE, WBE and non-M/WBE) subcontractors or suppliers assigned to this contract. The Affirmation of Income Payments to MBE/WBE (ADM-146) must accompany this form for each MBE/WBE firm who has received payment.

<b>Quarter</b>	<b>Reporting Period</b>	<b>Due Date</b>
1st	April 1 ó June 30	July 10
2nd	July 1- September 30	October 10
3rd	October 1 - December 31	January 10
4th	January 1 ó March 31	April 10

- Contractor’s Name & Address:** Indicate name, address, city, state and zip code.
- Contractor’s Federal ID #:** If Federal ID # not assigned, provide Social Security # of the owner.
- Goals:** Indicate HCR’s assigned MBE and WBE participation goals.
- Reporting Period:** Indicate reported month and year.
- SHARS/Project #:** Indicate HCR’s SHARS #/Project #.
- Subcontractor or Supplier Name & Address Federal ID #:** Indicate the name, address, city, state and zip code. If Federal ID # not assigned, provide Social Security # of the owner.
- Description of Work:** Check the box that best describes the work performed. (CHECK ONE BOX ONLY)
- NYS Certified** Indicate if MBE or WBE. (CHECK ONE BOX ONLY) Only firms certified by NYS will be counted towards goals
- Payments This Period:** Indicate amount paid to each subcontractors or suppliers this reporting period.

**NOTE: IF THERE WAS NO PAYMENT THIS PERIOD, PLEASE CHECK THE BOX.**

**Contract Amount:** Indicate total contract amounts or purchase agreement(s) for each subcontractor or supplier.



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**Affirmation of Income Payments to MBE/WBE**

*Each MBE and WBE FIRM must sign and submit this form to the Contractor. The Contractor/Vendor must submit this form to the Office of Fair Housing and Equal Opportunity by the **10th of each Quarter**.*

**CONTRACTOR**

1. Name and Address of Contractor	2. SHARS/Project #				
Federal ID #	3. Reporting Period				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px;">Quarter</td> <td style="width: 50px;">Year</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> </table>	Quarter	Year	_____	_____
Quarter	Year				
_____	_____				

**M/WBE FIRM**

1. Name and Address	2. Date contract started:									
Federal ID #	3. New York State Certified (Check One) <input type="checkbox"/> MBE <input type="checkbox"/> WBE									
4. Type of Service Provider (Check one box only) <input type="checkbox"/> Construction <input type="checkbox"/> Supplier <input type="checkbox"/> Consultant Service <input type="checkbox"/> Service/Commodity										
<b>5. Summary of Payments</b>  <table style="width: 100%;"> <tr> <td style="width: 60%;">a. Total MBE/WBE contract amount</td> <td style="width: 5%;">\$</td> <td style="width: 35%; text-align: right;">_____</td> </tr> <tr> <td>b. MBE/WBE payment received for this reporting period</td> <td>\$</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>c. Total MBE/WBE payments received as of this reporting period</td> <td>\$</td> <td style="text-align: right;">_____</td> </tr> </table>		a. Total MBE/WBE contract amount	\$	_____	b. MBE/WBE payment received for this reporting period	\$	_____	c. Total MBE/WBE payments received as of this reporting period	\$	_____
a. Total MBE/WBE contract amount	\$	_____								
b. MBE/WBE payment received for this reporting period	\$	_____								
c. Total MBE/WBE payments received as of this reporting period	\$	_____								
Signature of MBE/WBE	Print Name of MBE/WBE	Date								
Signature of Contractor	Print Name of Contractor	Date								

**Failure to submit this form will result in non-compliance.**



**New York State**  
**Homes and Community Renewal**  
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## MONTHLY EMPLOYMENT UTILIZATION REPORT

(Instructions on Next Page)

<b>Project Name:</b>		<b>Reporting Period:</b>	From: _____ To: _____
<b>Contractor/ Firm Name:</b>		<b>Address:</b>	
<b>Federal ID/SS#:</b>		<b>SHARS #:</b>	<b>Location of Work:</b>
<b>Labor Amount:</b>	\$ _____	<b>Construction Start Date:</b>	<b>Percent of Job Complete:</b> _____

### TOTAL NUMBER OF EMPLOYEES FOR THIS REPORTING PERIOD

Job or Trade Category	Total Number of Employees		Black or African American		Hispanic or Latino		Native Hawaiian or Other Pacific Islander		Native American or Alaskan Native		Asian	
	M	F	M	F	M	F	M	F	M	F	M	F
Professionals												
Technicians												
Office/Clerical												
<b>Construction Trade - List Each</b>												
<b>Grand Totals</b>												

Company Official's Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company Official's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

**NOTE: Failure to submit this form will result in non-compliance.**

### **INSTRUCTIONS FOR FILING MONTHLY EMPLOYMENT UTILIZATION REPORT**

The Monthly Employment Utilization Report (ADM-136) is to be completed and signed by the contractor or subcontractor and **submitted by the 10<sup>th</sup> of each quarter** for the duration of this contract. This report covers all hourly workers, including foremen, supervisors or crew chiefs, journey workers and apprentices or trainees working on the project. Professionals, technicians and office clerical field office staff working on the contract should also be reported.

Name of Project: Indicate the Name of Assigned Project

Reporting Period: Indicate reported month and year.

Contractor or  
Subcontractor Name: Indicate name, address, city and zip code.

Federal ID Number: If Federal ID # not assigned, provide Social Security # of the owner.

Labor Amount: Indicate dollar amount allocated for labor on the Detailed Estimate.

SHARS Number: Indicate HCR assigned SHARS #.

Location of Work: Indicate county where project is located.

Contract Start Date: Indicate date construction actually began.

Percent of Job Complete: Indicate the estimated percentage of job completed.

Job or Trade Category: Indicate the total number of employees for the field office staff, including supervisory personnel and administrative staff at the job site. Indicate the number of employees for each construction trade.

Total Number of  
Employees: Indicate the total number of **all** employees, regardless of ethnicity, under each trade category for all males (M) and all females (F). **Note: These two columns include the number of employees for the entire workforce.**

Total Number of Employees  
Minority & Females: Indicate the total number of employees for each minority group member(s) under each trade category for all minority males (M) and all females (F). **Note: These columns include only the minority workforce.**

Grand Totals: Total of columns under each trade category for all males (M) and all females (F).

**The company official's name, title and telephone number should be printed or typed at the bottom of the form.**

