



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org



REQUEST FOR PROPOSALS

RFP GHURA-24-001 For Public Housing Physical Needs Assessment and Energy Audit

**RFP Submission Deadline: 10:00 am (ChST)
Guam Housing and Urban Renewal Authority (GHURA)**

REQUEST FOR PROPOSALS (RFP)

Physical Needs Assessment and Energy Audit (2024)

**Fernando B. Esteves
Deputy Director**

PROPOSAL DEADLINE:

All proposals must be received at the following address no later than 10:00 a.m. Chamorro Standard Time (ChST), on February 20, 2024 at 10: 00 am.

PROPOSAL SUBMISSION:

To be considered, a proposal must be submitted via mail service or hand-delivered to the GHURA Administrative Office, located at 117 Bien Venida Avenue, Sinajana, GU 96910.

Hand-delivered or mailed responses must be in a sealed envelope with PNA & ENERGY AUDIT RFP Response noted on the envelope. Mail and hand-delivered submissions must arrive at GHURA by the time/date deadline noted above. Late responses will not be accepted.

All responses submitted are subject to these instructions and the Instructions to the Offerors, Non-Construction form [HUD 5369-B](#), contained in Appendix 2.

GHURA reserves the right to reject any or all proposals for cause and to waive any informality in the submission process if it is in the public interest to do so.

During the period between issuance of this RFP and the proposed due date, no oral interpretation of the RFP's requirements will be given to any prospective Offeror. Requests for interpretation (and other questions) must be made in writing at least 7 days before the submission due date and time to:

Antonio C. Camacho, Housing Procurement Administrator
Office of Procurement
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, GU 96910
sperez@ghura.org and accamacho@ghura.org

During the period of advertisement for this RFP, GHURA may wish to amend, add to, or delete from the contents of this RFP. In such situations, GHURA will issue an addendum to the RFP setting forth the nature of the modification. All addenda will be posted on the GHURA website at www.ghura.org or distributed to the prospective vendors, if known, via email.

Physical Needs Assessment and Energy Audit

RFP

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Part I. Introduction and Overview

Guam Housing and Urban Renewal Authority (GHURA) is a municipal corporation created under the laws of the US Territory of Guam. Its mission is to provide decent, safe, and sanitary housing for low-income families. GHURA receives funding from the U.S. Department of Housing and Urban Development (HUD) for the operation and modernization of low-income public housing owned by the Housing Authority.

HUD regulations require GHURA to undertake a Physical Needs Assessment (PNA) and an Energy Audit (EA) once every 5 years. In the near future, HUD is expected to require that the PNA be expanded to integrate with an energy audit, and it will be required to be performed using HUD's PNA tool software, also known as the "PNA tool." The software and user guide are currently available from the HUD Capital Fund web page:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/gpnatool.

This RFP requires that the selected Contractor follow the PNA protocol, use the PNA tool in the conduct of the PNA, prepare the data for submission to HUD by generation of the XML file in the tool and subsequent email of same to PNADATA@hud.gov, and provide GHURA with a written report and the completed PNA tool. During setup of the tool, the selected Contractor must work with the PHA to request and receive the PIC data import necessary to begin using the PNA tool. As discussed later in this RFP under 3.4. Deliverables and Timeframe, the Contractor will be required to assist the Housing Authority in successfully submitting the data to HUD.

HUD does not provide software for conducting the EA. Instead, the EA must be performed in a format of the Contractor's choosing, in accordance with the requirements listed at 24 CFR Part 965.302. This RFP allows the option for including the ASHRAE Level II audit as part of a combined solicitation.

The results of the EA should be loaded into and included in the PNA in accordance with the HUD PNA user guide.

Upon completion of the PNA, GHURA may then upload the PNA to HUD using the data contained in the HUD PNA software.

GHURA is seeking a professional consultant to undertake and complete the following according to

HUD requirements and protocols, and including any supplemental services the PHA may request herein:

- PNA,
- Energy Audit, or
- Combined (PNA and EA).

Part II. Scope of Services

1. General Overview

1.1. GHURA hereby requests proposals from qualified firms and individuals to perform both a PNA and an EA in accordance with all current HUD regulations, the HUD PNA software (“tool”), forms, user guide, and other guidance as may be issued HUD from time to time.

1.2. The PNA and the Architectural /Engineer (A/E) will reflect 750 units in 4 projects from the GHURA portfolio as identified in Appendix 1 of this RFP. The projects in Appendix 1 that are the subject of the PNA and EA are to include both dwelling and non-dwelling spaces and buildings as well as roads and parking areas contained within each project.

1.3. Appendix 1 contains a list of all properties, by project, with date of construction, total number of units, and (separately) number of public housing Annual Contributions Contract (ACC) units and including a listing of other community facilities to be included in the assessment.

1.4. Appendix 1 also identifies, if applicable, any mixed-finance properties that contain public housing ACC units that are to be included in the PNA.

1.5. The results of the PNA and EA will provide GHURA with data to make both long- and short-term strategic decisions on its physical inventory and assist in obtaining financing.

2. Physical Needs Assessment (PNA) Scope of Work/Technical Specifications

The GUAM HOUSING AND URBAN RENEWAL AUTHORITY is seeking proposals from qualified and licensed entities to provide the following detailed services:

2.1. General Requirements: *In accordance with the PNA User Guide, and the Public Housing and Modernization Standards Handbook 7485.2.* The PNA and Energy Audit will be conducted in accordance with 24 CFR 905.300, 24 CFR Part 965.302, and energy codes. The selected Contractor will provide a full range of services including evaluating the existing conditions of the housing stock based upon a representative sample selection of buildings, units, common areas, and other GHURA physical facilities. The assessment will identify energy conservation measures and the cost-savings that result from implementing the measures, thereby reducing operating costs. All identified physical improvements will meet or exceed HUD mandatory standards, and those established by local and state health, safety, and building codes. At a minimum, the goal of the PNA is to identify and provide a description of all physical improvements that will be required to bring the property back to a level comparable with “as-built,” to the degree reasonably possible based on available components and building age. The effort should provide the GHURA with the information necessary to ensure long-term physical

viability and in a manner suitable for planning and budgeting purposes. Data shall be in a format suitable for HUD reporting requirements.

2.1.1. Generally, identify deficient conditions, such as those that result from deferred maintenance, and building and life safety code noncompliance or obsolescence issues.

2.1.2. Perform interviews and review existing property documentation with knowledgeable GHURA staff, including building plans, building histories, prior assessments and energy audits, maintenance records, and Real Estate Assessment Center (REAC) scores of each development.

2.1.3. Identify all development components that will be part of the assessment.

2.1.4. Establish a methodology that will sample multiple like-kind buildings, and common areas such as lobbies, corridors, and community facilities.

2.1.5. Establish a plan to inspect the following:

- 10 percent of unit interiors.
- 10 percent of scattered site units.
- 100 percent of common areas.

The HUD PNA tool provides a general list of potential components to be assessed. Generally, components to be assessed are those for which replacement represents a significant capital cost eligible for funding from the HUD Capital Fund grant received by the PHA. The HUD list is not all inclusive and may not include significant components that will need assessment.

2.1.6. Perform walkthrough assessment/inspections of each development and other GHURA properties to ascertain the condition of the property; immediate critical and non-critical needs; general code compliance; expected repair, replacement, and major refurbishment needs; and total estimated cost to complete such items. The assessor will record the data on the HUD PNA approved data collection forms for the following: site, building exterior, building systems, unit, and common areas.

2.1.7. Identify work necessary to comply with federal, state, and local requirements and codes, such as elimination of asbestos/lead and new energy code compliance.

2.1.8. The assessor will provide and record an estimate of Expected Useful Life (EUL) for each individual component and will provide a source for EUL in general.

2.1.9. The assessor will provide and record a replacement unit cost for each individual component and for a total of those components. (e.g., per window and per window times all similar windows.)

2.1.10. Identify work items needed and costs for implementation to make selected units accessible and usable by the handicapped as required by Section 504 of the Rehabilitation Act of 1973. This will include costs to retrofit a specific number of dwelling units to meet Section 504 requirements for persons with disabilities. Each area that is designated as part of Section 504 or Americans with Disabilities Act (ADA) requirements will be inspected to ensure that the

components are functioning according to their purpose. (*Note: A regulatory compliance review is not required for these units or areas; only a functionality and EUL assessment is needed.*)

2.1.11. Identify energy conservation measures and review energy audit reports to incorporate energy audit recommendations into the PNA. Evaluate options for increased energy efficiency.

2.1.12. The intent of the assessment is to perform a full evaluation based on visual observation of accessible areas. The assessor is not expected to perform destructive or forensic testing (opening wall cavities, cutting pipes, etc.) or to enter confined spaces. No destructive testing is to take place without prior written approval of the Housing Authority.

2.1.13. Any deficiencies identified that could have an impact on health and safety will be brought to the attention of the GHURA immediately by written and verbal notification as a matter of ensuring the safety of residents and housing authority personnel.

2.1.14. The selected Contractor will develop a Comprehensive Costing Library. Professional/certified cost estimating utilizing “R.S. Means” construction costing is preferred. Building a comprehensive cost and EUL component library is vital to using the HUD PNA Tool. The comprehensive cost and EUL component library must contain descriptions and reference information.

2.1.15. Provide a detailed report for the GHURA development that details the assessment data. The selected Contractor will detail quantity and cost estimates to accomplish each work item, a total for each project, and a grand total to accomplish all needed physical improvements. *General work category (e.g., Kitchens, Bedrooms) costing without specific work item costing is unacceptable.* Provide individual cost tables and digital photographs to document notable conditions at each property. The Contractor shall show a line-item prioritization. The work shall include a review of any prior plans, recommendations, and a detailed report on items completed in the interim. The major part of the work consists of a thorough assessment of noted property, leading to a prioritized list of recommended improvements, plus a detailed physical database. Included is the identification of work that may be recommended to improve long-term viability, such as change in physical configurations, comprehensive revitalization with total demolition, and/or disposition. All data will be entered into the HUD PNA tool, sufficient to produce a 20-year cost projection of needs for each capital component.

2.1.16. The PNA will require the use of a HUD tool that can be found at the following HUD website address:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/gpnatool.

The work performed by the Contractor under this solicitation must be in compliance with the proposed regulations as known at the time of this solicitation. Contractors shall ensure that data collected under this solicitation include all information required under the proposed rule and are sufficient to enter into the PNA tool. The Contractor shall include in its price all costs to complete the HUD PNA tool, as required. This rule revises HUD’s energy audit requirements applicable to the Public Housing program for the purpose of clarifying such requirements, as

well as identifying energy-efficient measures that need to be addressed in the audit and procedures for improved coordination with physical needs assessments.

2.2. Phases of Work: Work shall consist of three phases:

2.2.1. Pre-Assessment—focuses primarily on preparing for the assessment, as well as collecting and recording development data and utilizing architectural plan measurements and count data.

2.2.2. Assessment—focuses on helping you to identify all building components, including quantities of each present component; establish remaining useful life (RUL); and determine eligibility and cost of component refurbishment or replacement.

2.2.3. Post-Assessment—focuses on establishing industry-standard parallels through collection, review, data input, and report production.

2.3. Steps of Work: The steps involved include, but are not limited to:

2.3.1. Develop a detailed survey scope and survey methodology, pertinent to the collection of all assessment data and the information required to develop the database.

2.3.2. Survey existing physical conditions at the development, including but not limited to: the roofs, envelopes, windows, landscaping, streets/parking areas, sidewalks, etc.; the building interiors, including all finishes, fixtures, materials, and equipment; all common areas, including halls, lobbies, stairwells, etc.; crawl spaces, utility tunnels, etc.; and all mechanical, electrical, plumbing, and air conditioning systems, etc.

2.3.3. Interview resident representatives and maintenance and management staff; collect and record all relevant data.

2.3.4. Based on information gathered in the steps above, analyze the condition of all systems and components at the development and identify all capital improvements or modernization necessary.

2.3.5. Provide cost estimates for each item of recommended improvement, including units and unit prices where applicable.

2.3.6. Employ quantitative units in building the database wherever possible.

2.3.7. Review the GHURA's most recently available PNA to verify which items were completed and which items remain to be completed.

2.3.8. Prioritize each work item. There should be at least five (5) categories of priority, ranging from emergency, through urgent, to long-range.

2.3.9. To allow for future updates and modifications by the housing authority, the Contractor shall provide the entire plan in an electronic database format to facilitate the future updating of the facilities condition evaluations.

2.4. PNA Report: Upon completion of the inspections, the selected Contractor will provide a

report to the GHURA in narrative and spreadsheet forms that meets the GHURA requirements, in both paper and electronic format. This requirement also includes the XML report to be generated from the PNA tool for submission to HUD. The draft report will contain the PNA results, including ECMs from energy audits, and will be submitted to GHURA for review and comments.

The report of the PNA shall include:

2.4.1. An introductory background section, summarizing the prior PNA and history; the past capital improvements; the assessment procedures, assumptions, and methods; the prioritizing system and approach; the cost-estimating methods and assumptions; and an explanation of and reference to the cost-estimating guide proposed.

2.4.2. A separate HUD Form 52828, Physical Needs Assessment, for each asset management property/development assessed. Attach to each report color photographs and a detailed narrative describing the property's exterior and interior physical elements and condition, including architectural and structural components and mechanical systems. Include a section for the development that gives general information and descriptions of the development.

2.4.3. A listing of each issue of deficiency, by priority, giving at a minimum the system (HVAC, site, unit interior, etc.), a brief description of the problem, a brief recommendation, and a cost estimate.

2.4.4. An attachment that includes an overall listing of the recommended work items by priority, a copy of the survey form, and a listing of all the systems, components and subcomponents, and entry codes used in the database.

2.4.5. An Executive Summary summarizing major findings and recommendations plus any other major issues, including any repair items that immediately impact health and safety such as code violations; regulatory compliance issues such as relocation planning, asbestos-containing materials, lead-based paint, and environmental issues; or systematic problems. Also describe any Section 504 work items, energy conservation measures, and any environmental hazard (asbestos/lead-based paint) items.

3. Energy Audit Scope of Work/Technical Specifications

Pursuant to 24 CFR 965.302, the GHURA is required to complete an energy audit for each housing authority-owned project under management not less than once every 5 years.

3.1. General Requirements: The Energy Audit will be conducted in accordance with 24 CFR Part 965 and energy codes. The selected Contractor will provide a full range of services including evaluating the existing conditions of the housing stock on the basis of a physical inspection of a representative sample. (Note: The Contractor will be expected to inspect a sample size comparable to that for the PNA described above; the inspected areas for purposes of the energy audit may be, but are not required to be, the same as those inspected for the PNA.) The assessment will identify water and energy conservation measures and the cost-savings that result from implementing the measures. All identified physical improvements will meet or exceed HUD mandatory standards and those established by local and state health, safety, and building codes. The Contractor shall enter the data into the PNA tool for each ECM considered sufficient

to include the ECM as an alternate item on the cost projection and to calculate a simple payback for each considered ECM. Data fields required for each ECM are the general specification of the ECM, its cost, its estimated useful life, its estimated annual water/energy consumption, the utility rate applicable to the ECM, and the water/energy consumption of the component to be replaced by the ECM if applicable.

3.2. Scope of Services: Pursuant to 24 CFR 965.302, the GHURA is required not less than once every 5 years to conduct an energy audit. Specifically, the noted CFR states that each PHA:

“Shall complete an energy audit for each PHA-owned project under management, not less than once every five years. Standards for energy audits shall be equivalent to State standards for energy audits. Energy audits shall analyze all of the energy conservation measures, and the payback period for these measures, that are pertinent to the type of buildings and equipment operated by the PHA.”

The Contractor shall perform an energy audit comparable to the standard established by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Level II.

3.2.1. The objectives of the audits are to identify energy conservation measures (ECMs), to determine costs to implement each ECM, and to calculate the cost-savings that result from implementing the measures. Additionally, the audit should identify any compliance, health, or safety issues related to energy improvements. Each development will require conduct of a non-investment-grade energy audit and a report. HUD has published a proposed energy audit rule in the Federal Register (Public Housing Energy Audits, dated 11/17/2011) that provides standards that the Contractor shall use in the conduct of the energy audit. The Contractor shall also comply with The Public Housing Modernization Standards Handbook, 7485.2 REV-1, dated February 4, 1985, and with the HUD [Energy Conservation for Housing—A Workbook](#), January 1998.

3.3. The selected Contractor shall conduct an energy audit for each measure. The following items are specifically included:

3.3.1. The Contractor shall analyze the utility bills (list utilities used by the PHA) provided by the PHA for the three (3) most recent years for all common areas (PHA paid) and units (to the extent available). The analysis shall identify trends of consumption against a benchmark(s) to support the Contractor’s prioritization recommendations for actions such as implementing ECMs, maintenance activities, and/or resident education.

3.3.2. The energy walkthrough survey must include Core ECMs, which have a proven track record at reducing energy and water consumption. The Core ECMs include items related to building envelopes (e.g., insulation); heating, cooling, and other mechanical systems; water conservation; power, lighting systems, and controls (e.g., CFL); and appliances (e.g., ENERGY STAR).

3.3.3. Review of all available building plans, specifications, product literature, and test and balance data to quantify building and equipment design criteria, parameters, and sizes. The review should also include architectural, mechanical, and electrical drawings and specifications

for housing developments, administrative offices, and other buildings and identify whether any energy conservation measures, or energy-saving equipment is in use.

3.3.4. Collection of climatological data for the local area, to correlate energy usage to weather conditions.

3.3.5. Interviews of selected property, maintenance, and modernization personnel and residents to determine problem areas and concerns.

3.4. Advanced ECMs, which include advance, experimental, or difficult improvement items such as fuel conversion, conservation technologies (energy management systems), energy-generating technologies, and renewable energy systems (solar, geothermal), may be considered for supplemental feasibility study outside the scope of this contract.

3.5. The following tests are not required under the HUD standard and are included here as add options. (Delete paragraphs that do not apply.)

- * Blower door/duct leakage testing on a sample dwelling unit at each development in order to determine air-sealing requirements. The tester must be HERS Energy Rater certified or equivalent. Equipment must be calibrated within 12 months of blower door test. Evidence of calibrated equipment may be requested.

- * Carbon monoxide and gas leak detection on all units inspected that have natural gas or propane appliances/equipment.

- * Thermal imaging tests on problem areas that are not accessible with visual inspection.

- * Property surveys at various times during the day and night, or days of the week, to identify patterns of variable usage.

3.6. Report Documentation or Report Preparation: The Contractor shall develop a comprehensive Energy Audit Report for each housing development and submit to the GHURA. This report shall contain:

3.6.1. A summary of energy conservation measures studied and those recommended for implementation, by development.

3.6.2. A detailed description of each energy conservation measure, the cost to implement, the estimated annual savings that must result, and the average simple payback.

3.6.3. All energy-savings opportunities ranked according to their payback, by Project, starting with the quickest and ending with the longest payback.

3.6.4. Recommendations as to the order in which the recommended energy-savings opportunities should be implemented in order to provide the GHURA with a master plan of action.

3.6.5. Presentation of the interrelationships of the various energy conservation measures in a project so that the GHURA understands the impact that implementing each measure has upon the

other proposed measures.

3.6.6. All backup engineering calculations, so that the Energy Audit Report can be readily updated each year to reflect changes in the cost of energy or the cost to implement the energy-savings measures.

4. Deliverables and Timeframe

4.1. The Contractor shall deliver the following, not later than 90 days from the effective date of the contract:

4.1.1. A briefing, at a time, date, and place determined by the GHURA, reflecting an overview of the Contractor's findings based on the completed PNA and EA. At a minimum, the Contractor shall address the overall condition of each project listed in Appendix 1 and review the HUD PNA report to be submitted to HUD.

4.1.2. A full, bound hard copy of the results of the PNA and EA. This includes a separate report prepared for each development that includes a discussion of all building systems, photographs of representative interiors and systems, and a table showing immediate repairs and life-cycle component replacement.

4.1.3. A copy of the PNA tool with all of the GHURA PIC Data, Inspections, Master Cost Library, Replacement Needs, Refurbishment Needs, Sustainability Needs, Accessibility Needs, and Marketability Needs installed, if necessary.

4.1.4. A demonstration of technical assistance to GHURA staff regarding submission of the required reports to HUD, including the PNA and future annual updates. The Contractor shall provide no less than 2 hours of training to PHA staff to instruct them in the use of the PNA tool for ongoing management and annual updating.

4.1.5. This shall include the preparation of the initial XML submission (generated within the tool) and detailed instructions for how the KHA shall submit it to HUD, in accordance with HUD requirements at the time the submission is due. The Contractor shall also provide instructions or references to the procedure for applying annual updates for submission to HUD.

4.1.6. The Contractor will continue to provide GHURA staff with technical assistance until they are able to successfully submit the completed PNA file, which must be validated by HUD as a successful submission.

Two (2) hard copies of each aforementioned item shall be submitted, as well as one (1) electronic copy submitted in either MS Excel or MS Word format on a "flash" or "thumbnail" drive. These documents/devices shall be the sole property of the GHURA. The Contractor shall not provide the documents produced for GHURA under this contract to any other party unless approved in writing by the Contracting Officer.

4.2. Time Completion Plan/Schedule (TCP/S): Offerors shall establish in the TCP/S the schedules/milestones shown below for the deliverables identified. In developing the schedule of milestones, the Contractor shall provide for thirty (30) calendar days for the GHURA to

review, coordinate, and comment on draft deliverables.

Deliverables	Timeframes/Milestones
Physical Needs Assessment (PNA) – Draft Version	Within ninety (90) days after the effective date of the Notice to Proceed (NTP)
Energy Audit – Draft Version	Within ninety (90) days after the effective date of the NTP
Physical Needs Assessment (PNA) – Final Version	Within thirty (30) days after receipt of comments on the “Draft Version” of the PNA
Energy Audit – Final Version	Within thirty (30) days after receipt of comments on the “Draft Version” of the Energy Audit

4.3. All reports are to be sent to:

GUAM HOUSING AND URBAN RENEWAL AUTHORITY
Attn: Elizabeth F. Napoli, Executive Director, and Sonny Perez, A/E Manager
117 Bien Venida Avenue
Sinajana, GU 96910
efnapoli@ghurq.org and sperez@ghura.org

Part III. Qualifications

In order to be considered qualified to perform the services under the Scope of Work, contractors performing the PNA/EA must have the following qualifications:

PNA:

1. State and local license as required.
2. At least 5 years of experience performing physical property inspections and cost estimations for PHAs; demonstrated knowledge of applicable multifamily building standards and codes; demonstrated knowledge of energy-efficiency practices; and a working knowledge of commonly used computer technology (MS Excel, Access, etc.).
3. State and/or local license as required.

EA:

1. Basic knowledge and experience to produce a useful and reliable energy audit.
2. Certification (“energy auditor,” “certified energy auditor,” “certified energy manager,” “HERS Rater”) from a state or national energy auditing certifying agency. Acceptable certifications include those provided by the American Association of Energy Auditors (AEE), the Building Performance Institute (BPI), and the Residential Energy Services Network (RESNET).

Insurance Requirements:

The Contractor must demonstrate Worker's Compensation Insurance and at least \$1,000,000 separately for both casualty and professional liability insurance.

Part IV. Proposal Submission

Proposals should be submitted in the following format, with Tabs separating each section:

1. **Letter of Transmittal.** A transmittal letter signed by the Contractor authorized to submit the proposal and to make commitments on behalf of the company.
2. **Table of Contents.** A table of contents shall be provided that lists each section of the proposal as required by Part IV of this RFP.
3. **Organization History.** Give a brief description of the firm and its history.
4. **Qualifications.** A description of the firm's qualifications to perform the PNA and/or EA.
5. **Experience.** Provide a list of the organizations for which the Contractor has performed relevant work, going back at least 5 years. Particular emphasis should be on contracts with public housing agencies and performance of physical needs assessments and energy audits for properties of similar character to those of the subject PHA.
6. **Staffing.** Provide a list of staff members who will work on this contract, including principals and staff-level personnel, along with qualifications of each.
7. **Evaluation Criteria.** Provide information addressing each of the evaluation criteria.
8. **Pricing.** Provide pricing separately for the PNA, the EA, and Total Costs for providing the services covered by this RFP. Show each staff member, hours proposed, and hourly rates (fully loaded). Also show material and other costs, including travel, general, administrative, overhead, and profit.
9. **References.** Provide a list of clients, including the organization name, contact person, telephone number, and address as well as brief descriptions of the scope of work. (No fewer than three references and no more than five).
10. **Other.** Evidence of coverage as required under Part III and any other information the Contractor or GHURA deems relevant and would like GHURA to consider.

Part V. Evaluation and Selection

Basis for award. The contract will be awarded to the firm whose proposal is determined by GHURA to be the most advantageous to the Authority, with price and other technical factors considered.

Technical factors include:

1. Experience. Firm's experience in performing physical needs assessments and/or energy audits. Emphasis should be placed on experience with public housing agencies, performing physical needs assessments and energy audits.
2. Qualifications. Identify the qualifications of the principals and staff performing work.

Staff members performing the PNA, or the EA must meet the qualifications listed under Part III.

3. Approach/Work Plan. Firms must identify how they plan to undertake the activities under the Scope of Services provided in Part II, and the proposed timeline.
4. Section 3 and Small, Minority- and Women-Owned Businesses.
 - Firms must provide documentation regarding their status as either a Section 3 business concern or a small, minority- or woman-owned business concern.
 - Firms must submit separate plans as to how they intend to meet the individual requirements of 24 CFR 135 to provide economic opportunities for low-income persons in the jurisdiction of KHA and 24 CFR 200 for small, minority- and women-owned business enterprises.

Relative weight of technical evaluation factors:

Factors	Points
1. Experience	35
2. Qualifications	20
3. Approach/Work Plan	30
4. Section 3/MBE	15
Total Points	100

Price will be considered in conjunction with technical factors by the GHURA to determine the proposal that is most advantageous and offers the best value to GHURA.

Part VI. Other Relevant Information

The contract executed pursuant to this RFP is deemed to include:

1. The specific contract document provided by GHURA.
2. This RFP in its entirety.
3. Required HUD forms:
 - Form HUD-5369-B, Instructions to Offerors – Non-Construction, is included in Appendix 2 and is part of this RFP. It is the Contractor's responsibility to carefully review the provisions.
 - Form HUD-5370-C, General Conditions for Non-Construction Contracts, Section I, is deemed to be a part of this RFP and the contract awarded under this RFP. The Contractor is expected to fully comply with this contract form.

The term of this contract is 150 days. There are no option periods unless unforeseen circumstances that are out of the control of the contractor and the GHURA occur that require an extension in order for the work to be completed.

The Contractor is expected to provide all labor and materials necessary to accomplish the Scope of Services contained in Part II of this RFP.

The Contractor will be paid upon completion of the contract and satisfaction of all contract and

deliverable requirements contained in Part II, Section 4, of this RFP.

Appendix 1: List of Properties Covered by the RFP

AMP 1 Site Base:

Agana Heights – 38 units--duplexes, fourplexes
Asan – 26 units--two-story, two-story duplexes
Mongmong – 48 units--duplexes, fourplexes
Sinajana – 46 units--duplexes, fourplexes

AMP 2 Site Base:

Inarajan – 28 units--single, two-story duplexes/triplexes
Talofofo – 28 units--single, duplexes
Talofofo Elderly – 8 units--cluster
Yona – 99 units—single, duplexes

AMP 3 Site Base:

Agat – 99 units--single, duplexes
Agat Elderly – Lower-15 units--cluster; Upper-17 units--cluster
Merizo – 28 units--single, two-story duplexes/triplexes
Merizo Elderly – 9 units--cluster
Umatac – 27 units--single, two-story duplexes/triplexes

AMP 4 Site Base:

Dededo – 35 units--single, duplexes;
Dededo - 48 units--single, two-story duplexes, two-story fourplexes
Dededo Elderly – 33 units--cluster
Toto – 116 units--duplexes, fourplexes

Appendix 2: Form HUD 5369-B. Instructions to Offerors- Non-Construction

Available for review at <https://www.hud.gov/sites/documents/5369-B.PDF>

Appendix 3: Form HUD 5370-C. General Conditions for Non-Construction Contracts.

Section I (7 pages)

Section II (3 pages)

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

General Conditions for Non-Construction Contracts

Section I — (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (excl. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$250,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$250,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$250,000 — use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$250,000

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

proposal submitted before final payment of the contract.

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section 111, Labor Standards Provisions, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(v) The prohibition does not apply as follows:

(1) Agency and legislative liaison by
Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'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/seller] 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/seller] 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 his 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/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor/seller or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] 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/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of 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/seller];
- 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/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] 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/seller] 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/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of 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/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Brail or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] 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, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] 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 Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, 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 75 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 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

23. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered

materials practicable consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

- 1) Non-construction contracts (*without* maintenance) greater than \$250,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$250,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$250,000 – use Sections I and II.

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

1. Minimum Wages

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

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

2. Withholding of funds

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

3. Records

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

4. Apprentices and Trainees

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

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

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

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

5. Disputes concerning labor standards

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

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

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

6. Contract Work Hours and Safety Standards Act

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

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

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

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

Appendix 4: Cost Proposal

The contractor shall propose a firm fixed fee for all work performed under this RFP. The fee will be broken down to reflect the fee for the PNA, Energy Audit, and total fee as reflected herein. The fee breakdown shall be inclusive of all costs, including but not limited to labor, material, supplies, and other costs. The fee shall be broken down by the component parts as follows:

PART A

Physical Needs Assessment

Total Cost. _____

Energy Audit.

Total Cost. _____

Grand Total Cost. _____

Firm/Company Name: _____

Firm's Authorized Representative: _____

Signature: _____

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PART B – PNA Cost Proposal

- A. **Labor.** Provide a breakdown for each position and for all positions combined.

POSITION	HOURLY RATE	ESTIMATED HOURS	TOTAL

(A) TOTAL LABOR COSTS: _____

- B. **Direct Costs.** Direct costs are costs that can be identified specifically with a project and therefore are charged to that project.

Cost Element **Total**

Materials		
Travel		
Miscellaneous Expenses		

(B) TOTAL DIRECT COSTS: _____

- C. **Indirect Costs, if applicable.** Indirect costs are costs incurred for common or joint objectives and therefore cannot be readily and specifically identified with a particular direct project or activity.

Cost Element **Total**

Labor	
Non-Labor	

(C) TOTAL INDIRECT COSTS: _____

- D. **Subtotal.** Subtotal of all labor, direct and indirect costs.

SUBTOTAL: _____

E. General, Administrative and Overhead. State the percentage and total costs.

Total	
General	
Administrative	
Overhead	

(E) TOTAL GAO COSTS: _____

F. Profit. State the percentage and total cost.

Percentage: _____%	Total: _____
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(F) TOTAL PROFIT: _____

G. Total PNA Cost Proposed:

TOTAL ALL COSTS: _____

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PART C – Energy Audit Cost Proposal

- A. Labor.** Provide a breakdown for each position and for all positions combined.

POSITION	HOURLY RATE	ESTIMATED HOURS	TOTAL

(A) TOTAL LABOR COSTS: _____

- B. Direct Costs.** Direct costs are costs that can be identified specifically with a project and therefore are charged to that project.

Cost Element **Total**

Materials	
Travel	
Miscellaneous Expenses	

(B) TOTAL DIRECT COSTS: _____

- C. Indirect Costs, if applicable.** Indirect costs are costs incurred for common or joint objectives and therefore cannot be readily and specifically identified with a particular direct project or activity.

Cost Element **Total**

Labor	
Non-Labor	

(C) TOTAL INDIRECT COSTS: _____

- D. Subtotal.** Subtotal of all labor, direct and indirect costs.

SUBTOTAL: _____

E. General, Administrative and Overhead. State the percentage and total costs.

<u>Total</u>	
General	
Administrative	
Overhead	

(E) TOTAL GAO COSTS: _____

F. Profit. State the percentage and total cost.

Percentage: _____%	Total: _____
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(F) TOTAL PROFIT: _____

G. Total Energy Audit Cost Proposed:

TOTAL ALL COSTS: _____

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Appendix 5: Section 3 Certification

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

Type of Business: // Corporation // Partnership
 // Sole Proprietorship // Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- ☐ Copy of resident lease
- ☐ Copy of receipt of public assistance
- ☐ Copy of evidence of participation
- ☐ Other evidence in a public assistance program

For business entity as applicable:

- ☐ Copy of Articles of Incorporation
- ☐ Certificate of Good Standing
- ☐ Assumed Business Name Certificate
- ☐ Partnership Agreement
- ☐ List of owners/stockholders and % ownership of each
- ☐ Corporation Annual Report
- ☐ Latest Board minutes appointing officers
- ☐ Organization chart with names and titles
- ☐ Additional documentation and brief function statement

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified

Section 3 business:

- ☐ List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- ☐ List of all current full-time employees
- ☐ List of employees claiming Section 3 status
- ☐ PHA/IHA Residential lease less than 3 years from date of employment
- ☐ Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- ☐ Current financial statement
- ☐ Statement of ability to comply with public policy
- ☐ List of owned equipment
- ☐ List of all contracts for the past two years

Authorizing Name and Signature

Attested by:_____

(Required by 5 GCA § 5233 as amended by P.L. 36-13 (4/9/2021))

ISLAND OF GUAM

Name of Owner	Principal Place of Business Street Address	% of Interest

- [] One or more of the more-than-10% owners listed above is a business or artificial person. Any more-than-25% owners of such a business or artificial person are listed below per 5 GCA § 5233. Note: any less-than-25% owners of such a business or artificial person is encouraged to also be listed below.

Name of >10% Owner Business or Artificial Person:

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Names of owners of the >10% Owner Business or Artificial Person ("Second Tier Owner")	Owner's Principal Place of Business Street Address	% of Interest

Name of other >10% Owner Business or Artificial Person:

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Names of owners of the >10% Owner Business or Artificial Person ("Second Tier Owner")	Owner's Principal Place of Business Street Address	% of Interest

- B. If any Second Tier Owner identified above is an artificial person, the natural or artificial owners of such Second Tier Owner who have held more than 49% of the shares or interest in the Bidder/Offeror/Prospective Contractor (Third Tier Owners) are as follows [if none, please so state]:

Second Tier Owner Name _____

Name of Third Tier Owner	Principal Place of Business Street Address	% of Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- C. If the name of no natural person has been identified as an owner, or a Second or Third Tier Owner of the Bidder/Offeror/Prospective Contractor, please identify the name, position, address, and contact information of the natural person having the authority and responsibility for the Bid/Offer/Proposal/Prospective Contract, and the name of any natural person who has the authority and power to remove and replace the designated responsible person:

Name of Natural Person	Position	Street Address of Principal Place of Business	Phone Number, Email Address, and other Contact Information

- D. Further, I say that the persons who have received or are entitled to receive a commission, gratuity, contingent fee or other compensation to solicit, secure, or assist in obtaining business related to the Bid/Offer/Proposal/Prospective Contract for which this Affidavit is submitted are as follows (if none, please so state):

Name	Principal Place of Business Street Address	Amount of Compensation

- E. Further, I say that the persons who have directly or indirectly participated in this solicitation and who are also employees of the government of Guam or the government of the United States, if federal funds are to be used in the payment of the contract related to the Bid/Offer/Proposal/Prospective Contract for which this Affidavit is submitted, are as follows (if none, please so state):

Name	Principal Place of Business Street Address

- F. Regardless of any ownership interest, the following individuals have the power to control the performance of the contract or to control the Bidder/Offeror/Prospective Contractor, directly or indirectly:

Name	Principal Place of Business Street Address

///

///

- G. Until award of the contract, and throughout the term of any contract awarded to the Bidder/Offeror/Prospective Contractor represented herein, I agree to promptly make any disclosures not made previously and update changes in ownership, identities of owners and other required information, interests, compensation or conflicts of the persons required to be disclosed. I understand that failure to comply with this requirement shall constitute a material breach of contract.
- H. I hereby declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

Executed on: _____
(date)

Signature of one of the following:
Bidder/Offeror/Prospective Contractor, if a licensed individual
Owner of sole proprietorship Bidder/Offeror/Prospective
Contractor
Partner, if the Bidder/Offeror/Prospective Contractor is a
partnership
Officer, if the Bidder/Offeror/Prospective Contractor is a
corporation

Subscribed and sworn to before me

This _____ day of _____, 20 _____.

NOTARY PUBLIC

My commission expires: _____

AFFIDAVIT RE NON-COLLUSION

CITY OF _____)
) SS.
ISLAND OF GUAM)

_____ [state name of affiant signing below], being first duly sworn, deposes and says that:

1. The name of the offering company or individual is [state name of company]
_____.

2. The proposal for the solicitation identified above is genuine and not collusive or a sham. The offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other offeror or person, to put in a sham proposal or to refrain from making an offer. The offeror has not in any manner, directly or indirectly, sought by an agreement or collusion, or communication or conference, with any person to fix the proposal price of offeror or of any other offeror, or to fix any overhead, profit or cost element of said proposal price, or of that of any other offeror, or to secure any advantage against the government of Guam or any other offeror, or to secure any advantage against the government of Guam or any person interested in the proposed contract. All statements in this affidavit and in the proposal are true to the best of the knowledge of the undersigned. This statement is made pursuant to 2 GAR Division 4 § 3126(b).

3. I make this statement on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

Signature of one of the following:

Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me

this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires _____, ____.

AFFIDAVIT RE GRATUITIES OR KICKBACKS

CITY OF _____)
) ss.
ISLAND OF GUAM)

_____ [state name of affiant signing below], being
first duly sworn, deposes and says that:

1. The name of the offering firm or individual is [state name of offeror company]
_____. Affiant is _____ [state one
of the following: the offeror, a partner of the offeror, an officer of the offeror] making the foregoing
identified bid or proposal.

2. To the best of affiant's knowledge, neither affiant, nor any of the offeror's officers,
representatives, agents, subcontractors, or employees have violated, are violating the prohibition against
gratuities and kickbacks set forth in 2 GAR Division 4 § 11107(e). Further, affiant promises, on behalf of
offeror, not to violate the prohibition against gratuities and kickbacks as set forth in 2 GAR
Division 4 § 11107(e).

3. To the best of affiant's knowledge, neither affiant, nor any of the offeror's officers,
representatives, agents, subcontractors, or employees have offered, given or agreed to give, any government
of Guam employee or former government employee, any payment, gift, kickback, gratuity or offer of
employment in connection with the offeror's proposal.

4. I make these statements on behalf of myself as a representative of the offeror, and on behalf of
the offeror's officers, representatives, agents, subcontractors, and employees.

Signature of one of the following:

Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me

this _____ day of _____, 20_____.

NOTARY PUBLIC

My commission expires _____, _____.

AFFIDAVIT RE ETHICAL STANDARDS

CITY OF _____)
) ss.
ISLAND OF GUAM)

_____ [state name of affiant signing below], being first
duly sworn, deposes and says that:

The affiant is _____ [state one of the following: the offeror, a partner of the offeror, an officer of the offeror] making the foregoing identified bid or proposal. To the best of affiant's knowledge, neither affiant nor any officers, representatives, agents, subcontractors or employees of offeror have knowingly influenced any government of Guam employee to breach any of the ethical standards set forth in 5 GCA Chapter 5, Article 11. Further, affiant promises that neither he or she, nor any officer, representative, agent, subcontractor, or employee of offeror will knowingly influence any government of Guam employee to breach any ethical standards set forth in 5 GCA Chapter 5, Article 11. These statements are made pursuant to 2 GAR Division 4 § 11103(b).

Signature of one of the following:

Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

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

NOTARY PUBLIC
My commission expires _____, _____.

AFFIDAVIT RE CONTINGENT FEES

CITY OF _____)
) ss.
ISLAND OF GUAM)

_____ [state name of affiant signing below], being first duly sworn, deposes and says that:

1. The name of the offering company or individual is [state name of company]
_____.
2. As a part of the offering company's bid or proposal, to the best of my knowledge, the offering company has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. This statement is made pursuant to 2 GAR Division 4 11108(f).
3. As a part of the offering company's bid or proposal, to the best of my knowledge, the offering company has not retained a person to solicit or secure a contract with the government of Guam upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. This statement is made pursuant to 2 GAR Division 4 11108(h).
4. I make these statements on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

Signature of one of the following:

Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me

this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires _____, _____.