

RFP 22-01 Legal Services

**Butler Metropolitan
Housing Authority**

May 2022

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Request for Proposal

The Butler Metropolitan Housing Authority (BMHA) will receive proposals for the following services:

Scope of Services: Legal Services

Closing Time: 2:00 p.m. (local time)

Closing Date: 07/13/22

Where: Butler Metropolitan Housing Authority
Procurement Department
4110 Hamilton-Middletown Road
Hamilton, OH 45011-6218

Phone: (513) 868-5238 FAX (513) 896-9381

Submissions received **after July 13, 2022 at 2:00pm will not be considered.**

Submissions will be reviewed and evaluated on the criteria defined in Section 5.0 of the request for proposal (RFP) packet. A contract will be awarded to the most responsible proposer who has complied with the conditions of the specifications.

A RFP packet will be provided upon request or may be obtained at the BMHA Procurement Department located at 4110 Hamilton-Middletown Road, Hamilton, OH 45011. Questions regarding the specifications should be directed to Michelle Graham at mgraham@butlermetro.org.

BMHA reserves the right to cancel this request RFP, or to reject, in whole or in part, any and all submissions received in response to this RFP, upon its determination that such cancellation or rejection is in the best interest of BMHA. BMHA further reserves the right to waive any minor informalities or the failure of any respondent to comply therewith if it is in the public interest to do so. BMHA will pay no compensation to any respondent for any costs related to preparation or submittal of the qualifications.

The award will be funded by the U.S. Department of Housing and Urban Development (HUD) and administered by BMHA. HUD reserves the right to review and approve the contract documents and the firm selected by BMHA.

Pursuant to established BMHA and HUD Affirmative Action and Equal Employment Opportunity goals, all Contractors are advised they must satisfy the goal to utilize qualified minority businesses to perform subcontract work or supply materials and/or equipment for the project and workforce content.

BMHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon ten (10) days written notice to the successful proposer.

BUTLER METROPOLITAN HOUSING AUTHORITY
BY: Michelle Graham, Procurement/Budget Assistant

1.0

INSTRUCTIONS TO PROPOSERS

1.1 Introduction

This Request for Proposal (RFP) attempts to provide the proposer with enough information to fully understand Butler Metropolitan Housing Authority's (BMHA) requirements and the environment in which the proposal must be developed and operate. Notwithstanding any of the specific details described in this RFP, it will be the obligation of the proposer to provide a service that works in the accomplishment of the requirements identified in this document. To aid the evaluation team in fully understanding each proposal submitted, and to ensure that full awareness is given to each aspect of the proposal, any deviation from the requirements specified in this document must be clearly noted and referenced to the subject area of the RFP.

1.2 Preparation of Proposal

Proposers 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 proposer's risk. Each proposer shall furnish the information required by the solicitation. The proposer shall sign the proposal 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 proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority unless that evidence has been previously furnished to BMHA. Proposals for services other than those specified will not be considered.

1.3 Explanation to Prospective Proposers

Any prospective proposer desiring an explanation or interpretation of the solicitation, statement of work, etc. **must request it in writing**. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective proposer concerning a solicitation will be furnished promptly to all other prospective proposer as an amendment of the solicitation if that information is necessary in submitting proposals or if the lack of it would be prejudicial to any other prospective proposer.

1.4 Questions

All questions shall be submitted **in writing (postal mail, fax, or e-mail)** and should be addressed to:

Michelle Graham
Procurement/Budget Assistant
4110 Hamilton Middletown Road
Hamilton, Ohio 45011
Fax # (513) 896-9381
mgraham@butlermetro.org

Questions may be submitted until 12:00 p.m. (noon) local time June 24, 2022.
Answers and responses will be distributed to all prospective offerors after that date.

1.5 Amendments to Solicitation

If the solicitation is amended, then all terms and conditions, which are not modified, remain unchanged. Proposers must acknowledge receipt of any amendments to this solicitation by signing and returning the amendment. BMHA must receive the acknowledgement by the time specified for receipt of proposals. Failure to acknowledge all amendments may result in rejection of the submission.

BMHA will endeavor to provide copies of addenda to all potential proposers to which this RFP has been mailed, but it will be the responsibility of each proposer to make inquiry as to the existence and content of addenda or amendments, as the same shall become part of this RFP and all proposers will be bound thereby, whether or not the addenda are actually received by the proposer.

All addenda may be downloaded from www.butlermetro.org, or may be obtained by contacting Procurement/Budget Assistant listed in Section 1.4.

1.6 Proposal Submission

Proposals must be submitted to BMHA by **July 13, 2022 by 2:00pm (local time) without exception**, at the following address to be eligible for consideration:

Butler Metropolitan Housing Authority
Procurement Department
4110 Hamilton-Middletown Road
Hamilton, OH 45011-6218

Proposals received prior to the closing date and time will be securely kept, unopened, until the closing date and time. The timestamp machine at the receptionist desk at 4110 Hamilton Middletown Road Hamilton, Ohio 45011 will serve as the official time clock.

To assure that your proposal arrives at the proper place, on time, and to prevent opening by unauthorized individuals, your proposal must be in a sealed envelope or package and must be identified on the envelope or package as follows:

**Request for Proposal
To Provide: Legal Services
Solicitation No. RFP 22-01
Due: 7/13/22 By: 2:00 pm**

Once received by BMHA, proposals will not be returned. All submissions are the property of BMHA and shall be retained by BMHA. The contents of the documents submitted by the successful proposer may become part of any contract award at the sole discretion of BMHA.

1.7 Evaluation of Proposals

Within sixty (60) days after receipt of proposals, BMHA will complete a review of all qualifications. This review will establish responsiveness or non-responsiveness according to the submission of required documents on the part of the proposer. Upon establishment of responsiveness, the technical and price evaluation phase will begin. An internal Evaluation Team will be assigned to this project. Their responsibility is to: (1) thoroughly review each proposal, (2) rate each proposal by awarding a point value to each of the Evaluation and Selection Criteria (5.0). All individual factors will be added to obtain an accumulated total score. At this point BMHA may decide, at its sole discretion, to enter into negotiations with the highest rated proposer.

Should BMHA deem it advisable to obtain additional clarification, proposers yielding clearly competitively high scores during the first evaluation phase may then be invited to a technical question and answer conference to be held at a specific time and date scheduled by BMHA. During this oral evaluation phase BMHA may, at its discretion, request any one or all proposers to make oral presentations. **Not all proposers may be asked to make such oral presentations.** If invited to participate, at this point, based on their oral presentations, proposers will again be evaluated on the technical evaluation factors.

Each proposer is cautioned that it is their responsibility to address information related to the evaluation factors during the question and answer conference. BMHA is under no obligation to solicit such information if it is not included within the proposer's presentation. In consideration of the evaluation team's final scores, BMHA intends to enter negotiations with, and award a contract to, the highest ranked proposer(s) based on the points received for the **oral evaluation** phase. The decision as to who shall receive a contract award, or whether an award shall be made as a result of this RFP shall be at the absolute sole discretion of BMHA. In addition, multiple awards may be made.

1.8 Negotiations with Selected Proposer

Once the evaluation process is complete, BMHA will negotiate with the highest ranked proposer. The negotiations will include clarifying the specific scope of work, performance period, and determining the final cost of the scope of work. If BMHA and the highest ranked proposer fail to reach an agreement, BMHA may negotiate with the next highest ranked proposer to reach an agreement, unless BMHA determines that it is in the best interest to re-solicit for these services.

1.9 Responsibility of Prospective Contractor

BMHA 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:

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

- Have a satisfactory performance record;
- Have a satisfactory record of integrity and business ethics;
- Have a satisfactory record of compliance with public policy (i.e. Equal Employment Opportunity); and
- Not have been suspended, debarred, or otherwise determined to be ineligible for award of Contracts by the Department of the U.S. Government. Current lists of ineligible contractors are available for inspection.

Before a proposal is considered for award, the proposer may be requested by BMHA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the proposer to provide additional information may render the proposer ineligible for award.

1.10 Qualifications of Proposers

BMHA may make such reasonable investigations as deemed proper and necessary to determine the ability of the proposer to perform the services and the proposer shall furnish to BMHA all such information and data for this purpose as may be requested. BMHA reserves the right to inspect the proposer's physical facilities prior to award to satisfy questions regarding the proposer's capabilities. BMHA further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such proposer is not properly qualified to carry out the obligations of the contract and to provide the services described therein.

1.11 Suspended/Debarred

BMHA will reject the qualifications of any proposer who is suspended and/or debarred by HUD from providing services to public housing authorities and reserves the right to reject the proposal of any proposer who has previously failed to perform any contract properly for BMHA.

1.12 Notice of Award

All proposers will be notified by mail of BMHA's selection as soon as possible. A successful proposer will be issued a Notice of Award. Within ten (10) business days, the proposer shall provide the following documentation:

- Proof of the appropriate insurance coverage:
 - Workers Compensation & Employers Liability - Statutory Amount **(Mandatory)**
 - Comprehensive Automobile Liability for vehicles used
 - Professional Liability - \$1,000,000 each occurrence / \$1,000,000 Aggregate
- Certificate of Corporate Good standing for Prime and **all levels** of Subcontractors.
- Evidence of the appropriate professional licenses as required

If the selected proposer fails to provide the required information, the Notice of Award is null and void. BMHA may choose to award a contract to the next highest ranked proposer or BMHA may choose to re-solicit for the service.

1.13 Contract Award

The contract will be awarded to the most responsive and responsible firm, which is most advantageous to BMHA provided the proposal complies with all conditions of the RFP. BMHA reserves the right to reject any and all proposals and to waive any informality in the solicitation. BMHA is prohibited from making an award to firms (including subcontractors) or any individuals that are on the list of firms ineligible to receive awards from the United States Governments, as furnished by HUD. Please be aware that HUD Form 5370-C (Exhibit C) will become a part of this contract.

1.14 Term of Contract

The term of this contract will be **August 1, 2022 through July 31, 2024** with an option to renew the contract for three (3) additional years at no additional cost to the authority, commencing August 1, 2024 until July 31, 2025; August 1, 2025 until July 31, 2026 and August 1, 2026 until July 31, 2027

1.15 Key Personnel

The key personnel specified by the successful proposer will be considered essential to the work to be performed by the successful proposer. Prior to diverting any of the key personnel for any reason, the contractor shall notify BMHA in writing at least thirty (30) days in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the contract. The firm shall not change key personnel or hours to be devoted, before or after contract award, without written permission from BMHA.

1.16 Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on BMHA by obtaining written and dated acknowledgement of receipt from BMHA at the address shown on the cover of this solicitation. Any protest against the solicitation must be received before the due date for receipt of proposals, and any protest against the award of a contract must be received within ten (10) calendar days after the award of the contract, or the protest will not be considered. All proposal protests shall be in writing, submitted to the contracting officer, who shall issue a written decision on the matter. The determination of BMHA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless the protestor makes an appeal.

1.17 Cost of Producing Proposal

The costs of producing proposal are the responsibility of the proposer. BMHA will not reimburse any cost incurred to produce and to respond to this solicitation, to participate in oral presentation or to participate in negotiations with BMHA for any offer.

1.18 Public Records

Proposers acknowledge that Butler Metropolitan Housing Authority is a political subdivision of the state of Ohio and is, therefore, required to comply with the Ohio Public Information Act. If a proposal includes proprietary data, trade secrets, or information the proposer wishes to except from public disclosure, then the proposer must specifically label each page containing such data, secrets, or information as:
"PRIVILEGED AND CONFIDENTIAL -- PROPRIETARY INFORMATION"

To the extent permitted by law, information labeled by the proposer as proprietary will be used by BMHA only for purposes related to or arising out of the (a) evaluation of proposals, (b) selection of a proposer pursuant to the RFP process, and (c) negotiation and execution of a contract, if any, with the proposer selected.

Neither a proposal, in its entirety, nor a cost proposal will be considered confidential/proprietary. Any proposal marked as such will be deemed nonresponsive and eliminated from further consideration.

2.0 STATEMENT OF WORK

2.1 Objective

Butler Metropolitan Housing Authority ("Authority") requires the services of a qualified individual or firm to provide legal services for and on behalf of the Authority.

2.2 Background

Butler Metro Housing Authority provides Public Housing for low and moderate income persons of Butler County. Currently BMHA operates 1144 low rent public housing units and administers approximately 2300 section 8 vouchers within Butler County. BMHA hopes to establish a professional personal relationship that will be beneficial for BMHA, the successful proposer, and BMHA's low and moderate income residents.

Major revenue sources for the Authority come from the Department of Housing and Urban Development (HUD), rental income, and services provided to residents.

Butler Metropolitan Housing Authority currently employs 48 personnel in the following configuration and locations:

- 18 - Maintenance employees throughout Butler County
- 30 - Administrative employees at the Terry R Kimmons Administrative Center located at 4110 Hamilton-Middletown Road in Hamilton Ohio

3.0 SCOPE OF SERVICES

3.1 Description Of Work Involved:

A Preliminary Scope of Services describes the work to be accomplished. Upon final selection of the firm or individual, the Scope of Services may be modified and refined during the fee negotiation.

- a. Act as Counsel to the BMHA.
- b. Have particular expertise in and prepare opinions, resolutions, and reports at the request of the Board of Directors or Executive Director or their designee(s) in:
 - 1. Matters of a commercial and business nature;
 - 2. Matters in the housing industry and real estate laws of Ohio;
 - 3. Matters pertaining to federal, regulatory or local statutes;
 - 4. Matters relating to personnel rules, regulations and procedures;
- c. Undertake such legal research as shall be requested by the Board or the Executive Director or their designee.
- d. Represent the Authority in connection with matters before the legislature, Board and other agencies of the United States
- e. Represent the Authority in litigation matters.
- f. Review contracts, leases, bid invitations and other documents for work if requested.
- g. Provide legal assistance and advice during any negotiations with the Authority's unions.

3.2 Time and Duration of Services:

It is anticipated that the required services will commence as soon as is practical or about August 1, 2022 and will continue for two years with an option to extend for another three years, not to exceed a total contract period of five years. Some services will commence immediately and expire upon completion of any specific task.

3.3 Form of Contract:

See Exhibit B

4.0

SPECIFIC SUBMISSION REQUIREMENTS

Proposers must submit four (4) bound proposals. One (1) must clearly be marked "Original" and must contain all original signatures. Three (3) proposals must clearly be marked "Copy" and **should not contain the price proposal**. Proposers must submit all documentation bound and in order listed below and clearly label each section with the appropriate title. Proposals not containing the following information may be considered nonresponsive:

Table of Contents:

Proposers shall include a table of contents listing the individual sections of the proposal and their corresponding page numbers. Tabs should separate each of the individual sections.

Experience:

- The name of the proposer, the location of the proposer's principal place of business and, if different, the place of performance of the proposed contract.
- The age of the proposer's business and the average number of employees over the past year.
- The abilities, qualifications, and experience of key persons regarding housing matters (HUD) and real estate who would be assigned to perform the required services.
- A listing of other contracts under which services similar in scope, size, and discipline for the required services were performed or undertaken in the past ten years, including those of Government of Ohio agencies.

Key Personnel:

If proposer is an individual, the proposal should include, at the minimum, a complete resume of the individual and include a listing of all current and former government/public clients and the type of legal work performed or being performed.

If proposer is a firm, the proposal should include a list of attorneys in the firm who will be assigned to work on BMHA matters. Complete resumes of those attorneys should be included which shall contain, at a minimum, legal work history and type of work performed. Firms shall also submit a list of current and former government clients

Capacity:

- A statement that the proposer has established and implemented an Affirmative Action Plan;
- A letter certifying that there is no conflict of interest with regards to services as required by BMHA;
- A letter from the Ohio Bar Association stating that the proposer is in good standing with the Ohio Bar Association;
- A letter affirming the existence of a Drug Free Work place Program and Policy at the firm.

- A statement of current references containing five (5) current references to include:
 - Company Name
 - Address
 - City, State, Zip
 - Contact Name
 - Telephone Number
 - Email address
 - Services Provided / Date(s) of Service

Forms: (Exhibit D)

Required forms:

- Debarment Certification for Prime and all levels of Sub-consultants (HUD 2992).
- A completed BMHA Representation and Certification Form (HUD-5369-A).
- A completed Instructions to Offerors Non-Construction Form (HUD-5369-B).
- A completed Representation Certifications and Other Statements of Offerors Form (HUD-5369-C).
- Non-Collusive Affidavit for prime and all levels of Sub-consultants.
- Declaration regarding material assistance to terrorist organizations (HLS 0038)
- A completed BMHA Women Business Enterprise (WBE)/Minority Business Enterprise (MBE) Form

Section 3 Plan:

Proposers are required to submit a utilization plan outlining their efforts to employ qualified Section 3 businesses or persons. Any Offeror claiming a Section 3 preference shall include under this tab the fully completed and executed Section 3 Business Preference Certification and any documentation required by that form.

Price Proposal: (Exhibit D)

Use the cost proposal form provided by BMHA in Exhibit D.

***Do not include price proposal with copies.**

5.0 EVALUATION AND SELECTION CRITERIA

Proposals received in response to this RFP will be evaluated by BMHA staff. Only those proposals from firms which are complete and responsive to the specification set forth in consideration of this RFP will be selected for future consideration.

The evaluation factors listed below will be used as a mechanism for fairly and thoroughly evaluating the technical and cost/price, etc... of each proposal submitted. Each proposal shall be evaluated only on the criteria listed below as evaluation factors.

Butler Metropolitan Housing Authority will evaluate each proposal using the following criteria with a total of 100 points:

Cost: 30 points

Experience: 20 points

The ability to perform the services as reflected by legal training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services.

The personnel, equipment, and facilities to perform the services currently available or demonstrated to be available at the time of contracting.

Capacity: 20 points

The firm's reputation for personal and professional integrity and competence.

The record of past performance of Housing Industry work.

The firm's understanding of the project's potential problems and the sponsor's special concerns.

Section 3 (Exhibit A): 20 points

MBE/WBE Form (Exhibit D) 10 points

Total 100 Points

EXHIBIT A
(Section 3)

**Section 3 Plan
for
Butler Metropolitan Housing Authority**

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General Policy Statement

It is the policy of Butler Metropolitan Housing Authority (BMHA) to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The BMHA implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the BMHA and other qualified low- and very low-income persons residing in Hamilton and Middletown, OH.

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of BMHA residents and other eligible persons and business by BMHA contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The BMHA shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to BMHA residents prior to acting on any proposed contract award.

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)(Section 3) requires BMHA to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance and business concerns that provide economic opportunities to low-and very-low income persons.

Section 3 Contracting Policy and Procedure

BMHA will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for the use with HUD funding. This policy and procedure contains goal requirements for awarding contracts to Section 3 Business Concerns.

All contractors/business seeking Section 3 preference must before submitting bids/proposals to BMHA be required to complete certification, as appropriate, as acknowledgement of the Section 3 contracting, and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as references in the form.

The existing Procurement Policy also contains goal and requirements for awarding contracts to Small Disadvantaged Business, formerly Minority and Women Business Enterprises (M/WBE).

Section 3 Plan

BMHA will develop a Section 3 Action Plan to identify the goals, objectives and actions that will be implemented to ensure compliance with the requirements of Section 3.

BMHA's intent to develop this plan is to include input from various city departments, as well as HUD. Input from other agencies and companies will be included, where applicable.

Section 3 Employment and Training Goals

It is the policy of BMHA to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from HUD. BMHA has established employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. (Reference 24 CFR 135.30 - Numerical goal for meeting the greatest extent feasible requirement). The numerical goal is:

- Thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, vendors, and suppliers to implement progressive efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All contractors submitting bids or proposals to BMHA are required to certify that they comply with the requirements of Section 3.

The Section Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is in Exhibit 3.

Section 3 Program Participant Certification Procedure

BMHA will certify Section 3 program participants who reside in the Cities of Hamilton and Middletown and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility.

- All persons living in the Cities of Hamilton and Middletown who meet Section 3 eligibility guidelines can, by appointment, visit with the Section 3 Coordinator to complete a job readiness assessment.
- Once the assessment is complete, the Section 3 Coordinator will determine if the individual meets the eligibility requirements and is job ready.
- If the individual is deemed eligible for Section 3 participation and deemed not ready for employment, a referral will be made to other agencies that are better equipped to address the individual's needs, i.e., substance abuse providers, etc.
- The Section 3 job readiness component is a part of BMHA's commitment and training to residents/participants to become gainfully employed.

Resident Hiring Requirements

BMHA has adopted the following scale for resident hiring that is to be used on all construction contracts, service contracts and professional service contracts that contain a labor component. It is expected that an appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in BMHA contracted labor efforts. A prime contractor may satisfy BMHA resident hiring requirements through its subcontractors.

Total Labor Dollars Use Total Contract Amount for Service Contracts	Resident as a % of Labor Dollars
\$25,000 through \$100,000	10% of the labor dollars
\$100,001 through \$200,000	9% of the labor dollars
\$200,001 through \$300,000	8% of the labor dollars
\$300,001 through \$400,000	7% of the labor dollars
\$400,001 through \$500,000	6% of the labor dollars
\$500,001 through \$1 million	5% of the labor dollars
\$1 million through \$2 million	4% of the labor dollars
\$2 million through \$4 million	3% of the labor dollars
\$4 million through \$7 million	2% of the labor dollars
\$7 million or more	1- ½% of the labor dollars

With this sliding formula, it is expected that an appropriate number of BMHA public housing residents and neighborhood residents with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy BMHA resident hiring requirements set forth above.

1. Subcontractor or joint venture with a resident owned business. The business must be 51% or more owned by BMHA public residents, or subcontract/joint venture with a business that employs full-time, 30% or more of low- and very-low income individuals within the cities of Hamilton and Middletown, or.
2. Direct hiring of BMHA public housing residents and/or low- and very-low income neighborhood residents based on the Resident Hiring Scale, or.
3. Contractor incurs the cost of providing skilled training for residents in an amount commensurate with the sliding scale forth in the Resident Hiring Scale, or.
4. Contractors makes a contribution to BMHA Education Fund to provide assistance to residents to obtain training. The level of contribution would be commensurate with the sliding scale set for in the Resident Hiring Scale.

Assisting Contractors to Achieve Section 3 Goal Hiring

The BMHA will assist contractors with little or no experience in achieving Section 3 and contracting goals by:

Requiring the contractor to present a list, to the Section 3 Coordinator, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.

BMHA Section 3 Coordinator will provide the contractor with a list of interested and qualified Section 3 residents for construction projects.

BMHA Section 3 Coordinator will inform contractor of known issues that might affect Section 3 residents from performing job related duties.

BMHA Section 3 Coordinator will review the new hire clause with contractors and subcontractors to ensure that the requirement is understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

Preference for Contracting with Section 3 Business Concerns

BMHA, in compliance with Section 3 regulations, will require contractors and subcontractors (including professional service contractors) to direct their efforts towards contracts to Section 3 business concerns in the following order to priority:

- **Category 1:** Business concerns that 51% or more owned by residents of the housing development for which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.
- **Category 2:** Business concerns that are 51% or more owned by residents of the Authority's public housing development(s) other than the housing development where the work is to be performed; or whose full-time, permanent workforce includes 30% of these persons as employees.
- **Category 3:** HUD Youthbuild programs being carried out in the Cities of Hamilton and Middletown in which Section 3 covered assistance is expended.
- **Category 4:** Business concerns that 51% or more owned by a Section 3 resident(s), or whose permanent, full-time workforce includes no less than 30% Section 3 residents (category 4 business); or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by BMHA.

Evidence of Section 3 Certification

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with BMHA shall complete the Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability form, which can be obtained from BMHA Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 program.

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of BMHA prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid or proposal.

Resident Owned Business Contracting

BMHA will consider utilizing the alternative procurement process (Section 24 CFR Part 963) when contracting with businesses owned in substantial part by housing authority residents (resident-owned business) for public housing services, supplies or construction.

To be eligible for the alternative procurement process, a business must submit evidence to BMHA that shows how each of the following requirements have been met:

- Submit certified copies of any city, state or county municipal licenses that support the type of business activity for which it performs.
- Disclose to the Section 3 Coordinator, all owners of the business, as well as, each owner's percentage of ownership and names those individuals who possess the authority to make decisions on a day-to-day basis.
- Submit evidence that the business is able to perform successfully under the terms and conditions of the proposed contract.
- Provide a certified listing of all contracts awarded and received under the alternative procurement process within a two-year period. If a resident-owned business has received, under this alternative contracting procedure, one or more contracts (within the two-year period) with total combined dollars of \$1,000,000, then it is no longer eligible for additional contracts under the alternative process until the 2-year period is passed.

This alternative procurement policy is based upon the procurement procedure and policy set forth in HUD's regulations at 24 CFR, Part 85.36, but applies only to solicitations of resident-owned business. BMHA will utilize the alternative contracting procedure for resident owned business only in cases where it is considered to be in the best businesses, economic and service interests of the authority.

Efforts to Award Opportunities to Section 3 Business Concerns

BMHA will use the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist:

- Advertise contracting opportunities via newspaper, mailings, posting notices that provide information about the work to be contracted and where to obtain additional information.
- Provide written notice of contracting opportunities to all known Section 3 business concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- Contact the City of Hamilton and the City of Middle Development Department, business assistance agencies, Minority and Women's Business Enterprises (M/WBE) contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.
- Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.
- Seek out training to assist residents interested in starting their own businesses to learn to prepare contracts, prepare taxes, obtain licenses, bonding and insurance.

Section 3 Residents Recruitment, Training and Employment Goals

BMHA will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

- Training opportunities will be advertised by distributing flyers via mass mailing and posting in common areas of the housing developments.
- The resident councils, as well as neighborhood community organizations will be contacted to request their assistance in notifying residents of the available training and employment opportunities.
- Employment opportunities will be advertised by posting job vacancies in common areas of all BMHA housing developments as well as contacting resident councils and neighborhood community organizations.
- A database will be developed of eligible qualified Section 3 Business concerns to contact with respect to availability of contract opportunities.
- Relationships will be developed with local area employers in an effort to solicit job vacancies to determine skills needed in their workforce, thereby providing training to residents developing skills that will transfer them into the external labor market.

- A provision for a specific number of public housing or Section 3 program participants to be trained or employed by the contractor will be incorporated into the contract.

Employment of the Section 3 Program Participants

- The Section 3 Coordinator will conduct a pre-interview with all residents being hired by a contractor.
- The pre-interview will assess job readiness (i.e., childcare, transportation, work maturity, job retention skills). Only residents meeting the minimum qualifications of the contractor or subcontractor will be referred to the job site. Residents not deemed job ready would be referred elsewhere. It is imperative that the resident's basic needs are met prior to employment.
- If a resident is referred to a contractor and does not perform satisfactorily due to poor work habits (i.e., tardiness, absenteeism, alcohol/drugs, abusive language, fighting, etc.) she/he will be allowed two additional opportunities to be referred to other contractors. If after that time the resident still does not perform satisfactorily, it will be mandatory that she/he attend and complete a job readiness class, alcohol/drug treatment center, or any other program that she/he may be required to attend. After successful completion, the resident will be given the opportunity to be reinstated on the list of residents available for work.
- Residents experiencing problems with contractors should first communicate the problem to the employer. If the problem cannot be resolved between the employee and employer, the Section 3 Coordinator will meet with the parties involved to assist in trying to resolve the problem. Residents and employers (contractors and subcontractors) should document problems whenever they occur and record any and all efforts to correct them. The written documentation of the problem should be submitted to the Section 3 Coordinator.
- In order to qualify for employment with contractors, public housing residents must have their name(s) on a lease, be current on rent, be at least eighteen years of age and not be involved with any legal action with BMHA (i.e. current documented eviction, criminal and drug activity or trespassing).
- Residents not interested in construction employment opportunities will be assessed for other skills (i.e. clerical, administrative, etc.) and will be referred to resources that will help with interviewing techniques, resume preparation and how to dress for success when conducting a job search.
- Residents interested in pursuing General Equivalency Diploma (GED) and continued training will be referred to resources that Section 3 Coordinator maintains contact with.

Contractor's Requirements in Employing Section 3 Participants

Under BMHA Section 3 Program, contractors and subcontractors are required to:

- Provide employment opportunities to Section 3 residents/participants in the priority order listed below:
 - **Category 1** - Section 3 Resident
Residents of the housing developments for which the contract shall be expended.
 - **Category 2** - Section 3 Resident
Residents of other housing developments managed by the BMHA in the City of Hamilton and City of Middletown.
 - **Category 3** - Section 3 Resident
Participants in HUD Youthbuild program being carried out in the project boundary area.
 - **Category 4** - Section 3 Resident
Residents of Section 8 of BMHA as well as all other residents residing in the Cities of Hamilton and Middletown who meet the income guidelines for Section 3 (refer to the Section 3 Income Limits).
- After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:
 - names of the Section 3 business concerns to be utilized,
 - estimates of the number of employees to be utilized for contract,
 - projected number of available positions to include job description and wages rates (construction wages consistent with Davis Bacon),
 - efforts that will utilized to seek Section 3 participants. (See Exhibit 2)
- Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 Participants prior to hiring. The Section 3 Coordinator will ensure that the participant is Section 3 eligible, by assessing the Section 3 database to ensure job readiness. Additionally, the legal department will be contacted to ensure that individuals are not involved in any legal proceedings against/with BMHA.
- Submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the contraction trades) at the time of contract award.
- Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc. and provide this information to BMHA Section 3 Coordinator.

- Immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants.
- Immediately notify the Section 3 Coordinator if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all such incidents to support decisions to the Section 3 Coordinator to determine if an investigation is warranted.

Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, BMHA encourages submittal of such complaints to its Section 3 Coordinator, as follows:

- Complaints of non-compliance should be filed in writing and must contain the name of the complaint and brief description of the alleged violation of 24 CFR 135.
- Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
- An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- The Section 3 Coordinator will provide written documentation detailing the findings of the investigation of BMHA. BMHA will review findings for accuracy and completeness before it is released to complainants. The finding will be made available no later than thirty (30) days after the filing of the complaint.

If complainants wish to have their concerns considered outside of BMHA, a complaint may be filed with:

Asst. Secy. For Fair Housing & Equal Opportunity
United States Department of Housing and Urban Dev.
451 Seventh Street, SW
Washington, DC 20410

The complaint must be received no later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

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-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 the contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative with the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth a minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations 24 CFR part 135, and agrees to take appropriate action, as provided in applicable provision of the subcontract or in the Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of the contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (1) preference and opportunities for training and employment shall be given to Indians, and (2) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Exhibit 1

**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:

- | | |
|--|---|
| <input type="checkbox"/> Copy of resident lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation
in a public assistance program | <input type="checkbox"/> Other evidence |

For business entity as applicable:

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

**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:**

- | | |
|---|--|
| <input type="checkbox"/> List of all current full-time employees | <input type="checkbox"/> List of employees claiming Section 3 status |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3
years from date of employment | <input type="checkbox"/> 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: _____

Am I a Section 3 Business?

1. Is 51% of your business owned by Section 3 Residents?
 - a. Percent owned by Section 3 Residents: _____
 - b. Percent owned by all others: _____

2. Does 30% of your current full-time staff meet the definition of Section 3 Resident?
 - a. Total number of full-time employees: _____
 - b. Number of full-time employees that currently meet the definition of a Section 3 Resident: _____
 - c. Number of full-time employees that may have met the definition of a Section 3 resident within the last 3 years: _____

3. Does your business have evidence of firm commitment(s) to provide 25% of the total dollar amount of subcontracts to Section 3 Businesses?
 - a. Total dollar amount of subcontracts to be awarded with HUD funds: _____
 - b. Total dollar amount of HUD-Funded subcontracts to be awarded to Section 3 businesses: _____

Exhibit 2

Resident Employment Opportunity Data

Butler Metropolitan Housing Authority Eligibility for Preference

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training And Employment

I, _____, am a legal resident of the

_____ and meet income eligibility guidelines for a low- or very-

low-income person as published on the reverse.

My permanent address is: _____

I have attached the following documentation as evidence of my status:

☐ ☐ Copy of lease

☐ ☐ Copy of receipt of public assistance

☐ ☐ Copy of Evidence if participation
in a public assistance program

☐ Other evidence:

Signature

Print Name

Date

Section 3 Income Limits

All residents of public housing developments of the Butler Metropolitan Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the cities of Hamilton and Middletown who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

Eligibility Guideline			
Persons in Family	Extremely Low Income	Very Low Income	Low Income
1	\$17,950	\$29,900	\$47,850
2	\$20,500	\$34,200	\$54,650
3	\$23,050	\$38,450	\$61,500
4	\$25,600	\$42,700	\$68,300
5	\$27,650	\$46,150	\$73,800
6	\$29,700	\$49,550	\$79,250
7	\$31,750	\$52,950	\$84,700
8	\$33,800	\$56,400	\$90,200

EXHIBIT B
(Professional Services Agreement)

PROFESSIONAL SERVICES AGREEMENT

This AGREEMENT, is made this ____ day of _____, 2022 by and between the **Butler Metropolitan Housing Authority**, whose address is 4110 Hamilton-Middletown Road, Hamilton, Ohio 45011, and the law firm of

_____, hereinafter referred to as ("**ATTORNEY**"), whose mailing address is _____.

WHEREAS, BMHA intends to engage the professional services of Attorney to provide legal services to BMHA; and

WHEREAS, the law firm will designate _____, as the lead attorney to work with BMHA and BMHA will appoint this individual as Legal Counsel pursuant to G.C.A. §_ for this purpose; and

WHEREAS, the services to be rendered are of a special and temporary nature which has been determined to be in the best interest to be performed under contract by professional personnel other than employees in the service of BMHA; and

WHEREAS, Attorney has submitted a statement of qualifications and an interest in providing such service; and

WHEREAS, BMHA and Attorney in consideration of the premises and the mutual Convents hereinafter set forth, agree as follows:

SECTION I - PURPOSE

Attorney agrees to provide legal services to BMHA as provided in Section II herein below:

SECTION II - SCOPE OF SERVICES

The scope of services to be provided will be in connection with this Agreement shall be as follows:

- (1) Act as counsel to BMHA;
- (2) Prepare opinions, resolutions, and reports at the request of any member of the Board of Commissioners (BOC) or Executive Director or its designee;
- (3) Undertake such legal research as shall be requested by the BOC or Executive Director or its designee;

- (4) Advise the Authority from time to time as to needed revisions of the laws of Ohio and of the Rules and Regulations of BMHA;
- (5) Advise the Board and the Executive Director of all legal matters to which the Authority is a party or in which the Authority is legally interested;
- (6) Represent the Authority in connection with legal matters before the Legislature, Boards, and other agencies of Ohio or the United States;
- (7) Represent the Authority in litigation concerning the affairs of the Authority;
- (8) Review and/or prepare contracts, leases, bid invitations, Writ of Possessions (WOP) and other documents as may be requested from time to time by the Board, Executive Director or their designee(s);
- (9) Provide legal assistance and advise during any negotiations with the Authority's union.
- (10) Perform special services as requested by the Board.

SECTION III - PERSONNEL

_____ shall be the primary legal representative of Attorney and any other member of the Law Firm _____, shall assist in the discharge of the duties of the Attorney.

SECTION IV - CONTRACT TERM

Subject to Section XV, the term of this Contract shall commence upon the execution hereof and continue for two (2) years with an option to extend for three (3) additional years, not to exceed a total contract period of 5 years with BMHA's BOC approval. Any reference to year in this agreement shall mean a twelve-month period. This agreement may be terminated by either party upon 30 days written notice.

SECTION V - COMPENSATION FOR SERVICES

BMHA shall compensate Attorney according as to the hourly rate schedule attached hereto as Exhibit D for actual time devoted to performing the above-enumerated services, provided, however, that the total monthly fee for attorney's services shall not exceed the sum budgeted annually without BMHA's Board of Commissioner's approval.

Subject to 2 CFR 200.317-200.326 Code of Federal Regulations, an adjustment to the fee stated herein may be requested by Attorney if the physical scope of work, time for completion, or services requested are increased over that agreed to.

BMHA shall compensate Attorney by payments based upon delivery of approved submittal of designated work within thirty (30) days of invoice and supporting documentation.

Attorney shall invoice BMHA for payments monthly and shall be required to provide a record of hours worked and the description of the work.

BMHA's obligation for payment of Attorney's fees and costs shall be subject to the availability of funds for such payment.

SECTION VI - EXPENSES

BMHA shall reimburse Attorney for the following expenses if on behalf of BMHA: travel, food, lodging and other related traveling expenses, provided the prior approval of BMHA is obtained for such travel and provided further, that reimbursement for such travel expenses shall be pursuant to BMHA's travel policy and rates for per diem compensation; the costs and fees of legal experts, consultants, specialists and co-counsel retained by Attorney with the prior approval of BMHA, which costs and fees may at BMHA's election be paid directly to such experts, consultants, specialists and co-counsel, or to Attorney as reimbursement; any other expense, provided that prior approval of BMHA has been obtained; any other expenses that although the prior approval of BMHA was not obtained, the BMHA Board of Commissioners or Executive Director determines to have been beneficial and justified. Attorney shall provide vouchers and receipts together with a brief explanation of each expense that it has incurred for the benefit of BMHA.

SECTION VII - FINAL PAYMENT AND RELEASE OF CLAIMS

Final payment shall be made upon satisfactory delivery and acceptance of all services as herein specified and performed under this agreement. Prior to final payment, as a condition precedent thereto, Attorney shall execute and deliver to BMHA a release, in a form approved by BMHA, of claims against BMHA arising under by virtue of this agreement.

SECTION VIII - INDEPENDENT AGENT

There shall be no employee benefits provided under this contract, such as health or life insurance, retirement benefits, vacation leave or sick leave, and there shall be no withholding of taxes by BMHA. Attorney contracts herein with BMHA as an independent contractor and is neither an employee nor an agent of BMHA for the purpose of performing the services hereunder. BMHA therefore assumes no responsibility of liability for the acts of Attorney which are performed in its independent and professional capacity.

SECTION IX - SCOPE OF AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the retainment of Attorney by BMHA and

contains all of the covenants and agreements between the parties with respect to such retainment in any manner whatsoever. Each party to this agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged. For the purpose of this paragraph and of the entire Agreement, the signature of the Chairman, Board of Commissioners and the Executive Director of the Authority are the only signatures that will bind BMHA.

SECTION X - RESPONSIBILITY OF ATTORNEY

Attorney shall be responsible for the professional and technical accuracy of all work and materials furnished under this contract. Attorney shall, without additional cost to BMHA, correct or revise all errors or deficiencies in his/her work.

BMHA's review, approval, acceptance of, and payment of fees for services required under this contract, shall not be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of Attorney's failure to BMHA for all costs of any kind which may be incurred by BMHA as a result of Attorney's negligent performance of any of the services performed under this contract.

SECTION XI - ASSIGNMENT OF AGREEMENT

Attorney may not assign this agreement, or any sum becoming due under the provisions of this Agreement without the prior written consent of BMHA.

SECTION XII - GENERAL COMPLIANCE WITH LAWS

Attorney shall be required to comply with all Federal and state laws and ordinances applicable to this work.

SECTION XIII - ACCESS TO RECORDS AND OTHER REVIEW

Attorney, including his subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence operating to costs incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the contract, for inspection by U.S. Housing and Urban Development (HUD) officials and BMHA. Each subcontract by Attorney pursuant to this Agreement shall include a provision containing the conditions of this Section.

SECTION XIV - OWNERSHIP OF DOCUMENTS

All briefs, memoranda and other incidental work of Attorney or materials furnished hereunder shall be and remain the property of BMHA including all publication rights and copyright interests and may be used by BMHA without any additional costs to

BMHA.

SECTION XV - INDEMNITY

The Attorney agrees to save and hold harmless BMHA, its officers, agents, representatives, successors and assigns and other governmental agencies from and all suits or actions of every nature and kind, which may be brought from or on account of any injury, death, or damage arising or growing out of the acts or omissions of the Attorney, its officers, agents, servants or employees under this Agreement.

SECTION XVI - CHANGES

BMHA may at any time, by written order make any changes in the services to be performed hereunder. If such changes cause an increase or decrease in the costs of doing the work under this Agreement, or in the time required for this performance, an equitable adjustment shall be made and the Agreement shall be modified in writing accordingly.

SECTION XVII - TERMINATION

Either of the parties hereto may, by written notice to the other, terminate this Agreement in whole or in part upon thirty (30) days written notice either for convenience or default. Upon such termination, all briefs, reports, summaries, completed work and work in progress, and such other information and materials as may have been accumulated by the Attorney in performing this Agreement shall, in the manner to the extent determined by BMHA, become the property of and be delivered to BMHA. If the contract is terminated by the Attorney or by BMHA for cause, prior to its completion, Attorney shall reimburse BMHA for any travel costs associated with this contract and BMHA may retain as a set-off for such expenses any funds owed to Attorney in BMHA's possession.

SECTION XVIII - SEVERABLE PROVISIONS

If any provision of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the agreement and the agreement shall be enforced according to its valid and subsisting terms and provisions.

SECTION XIX - GOVERNING LAW

The validity of the Agreement and any of its terms and provisions as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of Ohio.

SECTION XX – BMHA NOT LIABLE

BMHA assumes no liability for any accident or injury that may occur to Attorney, his

or her agents, dependents, or personal property while en route to or from this territory or during travel mandated by the terms of this Agreement.

SECTION XXI - APPROVALS

Any approvals required herein by BMHA shall mean approval by BMHA's Board of Commissioners is required unless another person is designated by the BMHA Board of Commissioners to issue particular or limited approvals on certain matters.

SECTION XXII - CONFLICTS

Attorney agrees to disclose to BMHA any possible conflict of interest that may arise in representing BMHA's interest and obtain a written waiver from BMHA regarding its conflict.

SECTION XXIII – NOTICES

Notices to either party will be sent to:

Butler Metropolitan Housing Authority
Hamilton-Middletown Road
Hamilton, Ohio 45011

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

BUTLER METROPOLITAN HOUSING AUTHORITY

By: _____
Ben Jones, Executive Director

Date: _____

LEGAL COUNSEL

By: _____

Date: _____

ATTEST:

By: _____
Kathleen Batliner, Chairman
BMHA Board of Commissioners

Date: _____

APPROVED AS TO FORM:

By: _____
Rita A. Adams, Accounting Manager

Date: _____

EXHIBIT C

(Forms)

Certification Regarding Debarment and Suspension

U.S. Department of Housing
and Urban Development

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

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

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

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

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

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

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

Instructions for Certification (A)

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

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

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

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

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

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

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

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

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

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

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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

Instructions for Certification (B)

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

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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

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

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

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

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant **Chris Hertz**

Date

10/23/18

Signature of Authorized Certifying Official

Title

Vice President

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

**Representations, Certifications,
and Other Statements of Bidders**
Public and Indian Housing Programs

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

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1. Certificate of Independent Price Determination

(a) The bidder certifies that--

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

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

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

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

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

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

[insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

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

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

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

[] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" ☐ is, ☐ is not included with the bid.

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

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

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

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

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

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

3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
- (b) Impair the bidder's objectivity in performing the contract work.

☐ In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

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

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

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

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

(c) ☐ is, ☐ is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) ☐ is, ☐ is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) ☐ is, ☐ is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

9. Certification of Eligibility Under the Davis-Bacon Act (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

10. Certification of Nonsegregated Facilities (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

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

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

11. Clean Air and Water Certification (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract ☐ is, ☐ is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

12. Previous Participation Certificate (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" ☐ is, ☐ is not included with the bid.

13. Bidder's Signature

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

(Signature and Date)

(Typed or Printed Name)

(Title)

(Company Name)

(Company Address)

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

Certifications and Representations of Offerors Non-Construction Contract

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

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

- (a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

4. Organizational Conflicts of Interest Certification

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

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

Non-Collusive Affidavit

State of _____

County of _____

_____, being first sworn, deposes and

says: That they are _____ (president, sole owner, partner,

etc.) of _____ (firm name) the party making the forgoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that no one conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of the affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, to secure any advantage against the Owner of any person interested in the proposed contract: and that all statements in said proposal or bid are true.

Signature of Bidder: _____ (if individual)

Signature of Bidder: _____ (if partnership)

Signature of Bidder: _____ (if corporation)

Subscribed and sworn to before me this ____ day of _____, 202__

_____ (Notary Public), My commission expires _____, 202__

***** FOR INSTRUCTIONAL USE ONLY *****

READ BEFORE COMPLETING YOUR DMA FORM

Forms not conforming to the specifications listed below or not submitted to the appropriate agency or office will not be processed.

- To complete this form, you will need a copy of the Terrorist Exclusion List for reference. The Terrorist Exclusion List can be found on the Ohio Homeland Security Web site at the following address:

<http://www.homelandsecurity.ohio.gov/dma.asp>

- Be sure you have the correct DMA form. If you are applying for a state issued license, permit, certification or registration, the "State Issued License" DMA form must be completed (HLS 0036). If you are applying for employment with a government entity, the "Public Employment" DMA form must be completed (HLS 0037). If you are obtaining a contract to conduct business with or receive funding from a government entity, the "Government Business and Funding Contracts" DMA form must be completed (HLS 0038). The Pre-certification form (HLS 0035) should only be completed if you are specifically instructed to do so by the agency or office requesting the form.
- Your DMA form is to be submitted to the issuing agency or entity. "Issuing agency or entity" means the government agency or office that has requested the form from you or the government agency or office to which you are applying for a license, employment or a business contract. For example, if you are seeking a business contract with the Ohio Department of Commerce's Division of Financial Institutions, then the form needs to be submitted to the Department of Commerce's Division of Financial Institutions. Do NOT send the form to the Ohio Department of Public Safety UNLESS you are seeking a license from or employment or business contract with one of its eight divisions listed below.
- Department of Public Safety Divisions:

Administration	Ohio Homeland Security*
Ohio Bureau of Motor Vehicles	Ohio Investigative Unit
Ohio Emergency Management Agency	Ohio Criminal Justice Services
Ohio Emergency Medical Services	Ohio State Highway Patrol
- * DO NOT SEND THE FORM TO OHIO HOMELAND SECURITY UNLESS OTHERWISE DIRECTED. FORMS SENT TO THE WRONG AGENCY OR ENTITY WILL NOT BE PROCESSED.

***** FOR INSTRUCTIONAL USE ONLY *****

GOVERNMENT BUSINESS AND FUNDING CONTRACTS

In accordance with section 2909.33 of the Ohio Revised Code

DECLARATION REGARDING MATERIAL ASSISTANCE/NO ASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List (see the Ohio Homeland Security Division Web site for reference copy of the Terrorist Exclusion List).

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

COMPLETE THIS SECTION ONLY IF YOU ARE AN INDEPENDENT CONTRACTOR

LAST NAME		FIRST NAME		MI
HOME ADDRESS				
CITY	STATE	ZIP	COUNTY	
HOME PHONE		WORK PHONE		

COMPLETE THIS SECTION ONLY IF YOU ARE A COMPANY, BUSINESS OR ORGANIZATION

LAST NAME		FIRST NAME		MI
BUSINESS/ORGANIZATION NAME			PHONE	
BUSINESS ADDRESS				
CITY	STATE	ZIP	COUNTY	

DECLARATION

In accordance with section 2909.32 (A)(2)(b) of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

- Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
- Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
- Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
- Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
- Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
- Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism? ☐ Yes ☐ No

In the event of a denial of a government contract or government funding due to a positive indication that material assistance has been provided to a terrorist organization, or an organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List, a review of the denial may be requested. The request must be sent to the Ohio Department of Public Safety's Division of Homeland Security. The request forms and instructions for filing can be found on the Ohio Homeland Security Division Web site.

CERTIFICATION

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

X

APPLICANT SIGNATURE

DATE

BUTLER METROPOLITAN HOUSING AUTHORITY
Woman Business Enterprise / Minority Business Enterprise
WBE / MBE FORM

CONTRACTOR INFORMATION
NAME:
ADDRESS:
TYPE OF BUSINESS:
OHIO LICENSE NO:
WOMEN BUSINESS ENTERPRISE (WBE)
<input type="checkbox"/> YES <input type="checkbox"/> NO
IF YES, PLEASE PROVIDE:
CERTIFICATION NUMBER:
EXPIRATION DATE:
MINORITY BUSINESS ENTERPRISE (MBE)
<input type="checkbox"/> YES <input type="checkbox"/> NO
IF YES, PLEASE PROVIDE:
CERTIFICATION NUMBER:
EXPIRATION DATE:
ADDITIONAL INFORMATION
CURRENT NUMBER OF EMPLOYEES:
CURRENT NUMBER OF WOMEN EMPLOYEES:
CURRENT NUMBER OF MINORITY EMPLOYEES:

I hereby certify that it is the policy of the undersigned to comply with all existing laws prohibiting discrimination in all aspects of employment due to race, color, creed, sex, age, religion, national origin, marital status, receipt of public assistance or disability.

This shall be accomplished substantially by the following action: Non discrimination in RECRUITING, HIRING, TRAINING, PROMOTING, SUBCONTRACTING, DEMOTION, LAYOFF, and/or TERMINATION.

Signature

Date

EXHIBIT D

(Price Proposal)

Butler Metropolitan Housing Authority
Price Proposal Form
RFP 22-01 Legal Services

75 Hours x _____ dollars per hour = _____ dollars

75 hours represents the number of hours of legal services BMHA used last year. Please base your hourly computation on that number. This is not a guarantee that BMHA will use that many hours again. Rather this is a way to fairly evaluate the cost of each proposal submitted.

Thank you