



*Embracing All the Possibilities*<sup>®</sup>  
**ADVERTISEMENT FOR BIDS**

*NOTICE TO BIDDERS*

Funding for this project is provided by the United States Department of Housing and Urban Development to the County of Somerset. Therefore, the Federal Labor Standards Provisions will apply. Attention is called to the fact that the contractor must ensure that employees and applicants for employment are not discriminated against because of their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Small, Minority and Women's Business Enterprises are encouraged to submit bids.

CDBG Funded Project-Somerset County

Project Name: YCS Burning Bush

Project No.: Somerset County - CY-COM-0005-23

Location of Work: YCS- 694 Burning Bush Ave, Burning Bush Ave, Bridgewater, NJ

YCS is seeking contractor bids for:

HVAC Replacement – Demo old unit; purchase and install new forced air system; purchase and install new condenser; clean vents throughout.

ADA Bathroom Remodel – Demo ADA bathroom, purchase and install new water closet, shower, lavatory; install new framing and insulation; install new sheetrock; spackle; install new tile; update electric and plumbing; painting.

Contractors may bid one or both projects. One packet is acceptable however, please provide separate budgets for each project.

The on-site visit will be on Tuesday, May 28, 9:30am-11:30am including on-site Q&A.

Bidder's package available <https://ycs.org> or on the day of on-site visit.

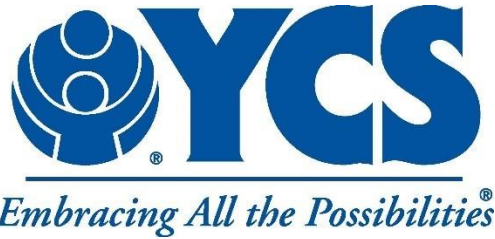
Sealed bids with completed bidder's package are due on June 5, 2024 at 4pm EST. No bids will be accepted after this date. Bids will be accepted via email, dropped off, or mailed. Please include the project name and number on the bid packet or on the subject line of the email. Contact information is below.

Bids will be publicly opened at project site on June 6<sup>th</sup> at 1pm EST.

Contact: Tina DeVico Price, YCS, 284 Broadway, Newark, NJ 07104, 973-482-8411x201169,

[tina.price@ycs.org](mailto:tina.price@ycs.org)

**EQUAL EMPLOYMENT OPPORTUNITY**



May 6, 2024

Statements of qualifications and proposals are being requested from vendors with experience **remodeling an ADA bathroom and replacing a HVAC**. Minority Owned and Women Owned businesses are encouraged to bid.

Each bidder must have written procedures for procurement transactions. Each bid must provide a clear and accurate description of the technical requirements for the material, product and services provided.

To comply with applicable federal regulations, the attached "Specifications" must be contained in the contract documents:

- a. \*HUD 4010 - Federal Labor Standards Provisions
- b. Conflict of Interest
- c. Non-Collusive Bidding Certification
- d. Affirmative Action and Equal Employment Opportunity Affidavit
- e. Equal Employment Opportunity
- f. \*Statement of Compliance with Section 3- \$100k +
- g. Copeland Anti-Kickback Provisions
- h. Clean Air and Water Acts
- i. Fair Labor Standards Act
- j. Age Discrimination Act
- k. Minority Business Enterprise Certification
- l. Record Retention and Audits
- m. \*CWHSSA- \$100k+
- n. Drug-Free Workplace Certification
- o. Build America, Buy America(BABA) Act

To expedite the review and approval process, include these attachments in their entirety at the back of the bid specifications. Please also include:

Bidders Packet should include:

- 1) History of firm and resources
- 2) CDBG experience
- 3) Capacity to complete scope of work
- 4) Current workload
- 5) Scope and level of service proposed
- 6) Experience with similar projects and list of references
- 7) Responsive to and compliant with all Attachments in the bid
- 8) Project Cost Proposal

This bid package is for: HVAC Replacement and ADA Bathroom Remodel – please note vendors may bid on one or both projects – separate budgets are required for each project

Location: 694 Burning Bush Avenue, Bridgewater, NJ

All interested parties are invited for a walk through on May 28, 9:30-11:30am; this will include onsite Q&A

Bidder: Review important dates posted on YCS.ORG website

All bids must be received in a sealed envelope (or via email) labeled: YCS Burning Bush – Somerset County – CY-COM-0005-23 either via email, dropped off, or mailed:

YCS, 284 Broadway, Newark, NJ 07104, no later than June 5 at 4PM EST [Tina.price@ycs.org](mailto:Tina.price@ycs.org)

# SOMERSET COUNTY COMMUNITY DEVELOPMENT OFFICE

## BIDDING AND LABOR STANDARDS FOR CDBG & HOME PROGRAM CONSTRUCTION PROJECTS

All Subgrantees must comply with the following procedures when preparing bid documents for Community Development projects.

### Preparation of Bid Packet

2. All bid specifications should provide a clear and accurate description of the material, product and/or service to be bid. The description must not unduly restrict competition.
3. All descriptions must set forth those minimal essential characteristics to which bids must conform. Detailed product specifications should be avoided.
4. All bid documents must set forth all requirements which bidders must fulfill.
5. Bid documents must include the following Federal provisions:
  - a. \*HUD 4010 - Federal Labor Standards Provisions
  - b. Conflict of Interest
  - c. Non-Collusive Bidding Certification
  - d. Affirmative Action and Equal Employment Opportunity Affidavit
  - e. Equal Employment Opportunity
  - f. \*Statement of Compliance with Section 3- \$100k +
  - g. Copeland Anti-Kickback Provisions
  - h. Clean Air and Water Acts
  - i. Fair Labor Standards Act
  - j. Age Discrimination Act
  - k. Minority Business Enterprise Certification
  - l. Record Retention and Audits
  - m. \*CWHSSA- \$100k+
  - n. Drug-Free Workplace Certification
  - o. Build America, Buy America(BABA) Act
  - p. \*\*Federal Wage Determinations (must be obtained through CD office)

Items "a" through "n" are included in this package. Item "o" is provided as a separate document as needed.

\*These items may or may not be applicable. Please check with a CD staff member to determine applicability of items marked "\*".

\*\*If applicable, item "p", because Federal Wage Determinations are regularly updated, you must obtain the most recent determination from the CD office to be included with your bid package.

## **HUD 4010 - FEDERAL LABOR STANDARDS PROVISIONS**

### **Summary:**

All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act [29 CFR, Part 3]), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part thereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on laborers or mechanics, the employment of mechanics or laborers under this contract shall be in compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-300) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate or pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor.

Wage payments must be reported to the County weekly on WH-347 Payroll Forms, copies of which must be forwarded to the contracting municipality each week. Further, a Statement of Compliance (Form WH-348) relative to the payment of wages and fringe benefits must accompany the submission of Payroll Forms.

This summary intended to introduce the contractor to responsibilities as described in HUD 4010 – Federal Labor Standards Provisions located on HUD’s website at <https://www.hud.gov/sites/dfiles/OCHCO/documents/4010.pdf>.

**CONFLICT OF INTEREST**

No member, officer, or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, real or apparent, in the contract or subcontract, or the proceeds thereof.

**NON-COLLUSIVE BIDDING CERTIFICATION**

By submission of this bid or proposal, the bidder certifies that:

- a. This bid or proposal has been independently arrived at without collusion with any other bidder or with any competitor or potential competitor;
- b. This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids or proposals for this project, to any other bidder, competitor or potential competitor.
- c. No attempt has been made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal.
- d. The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statement contained in this certification and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing in its behalf.
- e. Attached hereto (if a corporate bidder) is a certified copy of resolution authorizing the execution of this certification by the signatory of this bid or proposal of the corporate bidder.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

Company Name: \_\_\_\_\_

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

**AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY AFFIDAVIT**

SS:  
STATE OF

COUNTY OF

Being duly sworn according to law, upon his oath deposes and says:

That an Affirmative Action Program of Equal Employment Opportunity, in support of state law, as well as in accordance with Executive Order No. 11246, promulgated by the President of the United States, September 24, 1965, and Executive Order No. 11625, promulgated by the President of the United States, October 13, 1971, has been adopted by this organization to ensure that applicants are employed, employees are treated without regard to their race, creed, color, national origin, sex or age, and that the selection and utilization of contractors, subcontractors, consultants, materials suppliers and equipment lessors, shall be done without regard to their race, creed, color or national origin. The Affirmative Action Program shall address the internal recruitment, employment and utilization of minorities and the external recruitment policy regarding minority contractors, subcontractors, consultants, materials suppliers and equipment lessors.

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**(NAME OF ORGANIZATION)**

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**(SIGNATURE)**

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**(PRINT NAME)**

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**(TITLE)**

## **EQUAL EMPLOYMENT OPPORTUNITY**

It will comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR Part 60).

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contract procedures authorized in Executive Order 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



7. The contractor will include the portion of the sentence immediately preceding paragraph 1 and the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**STATEMENT OF COMPLIANCE WITH SECTION 3**  
**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1968**

- A. The project assisted under this contract/agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended 12 USC 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to residents of public housing and lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.
- B. Notwithstanding any other provision of this contract/agreement, the applicant/recipient shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 39 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this contract/agreement. The requirements of said regulation include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 Clause" specified by Section 135.20(b) of the regulations in all contracts for work in connection with the project. The applicant/recipient certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.
- C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this agreement/contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant/recipient, its successors and assignees. Failure to fulfill these requirements shall subject the applicant/recipient, its contractors and subcontractors, its successors and assignees to the sanctions specified by this agreement/contract, and to such sanctions as are specified by 24 CFR Section 135.

**Applicant/Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

**Printed Name and Title:** \_\_\_\_\_

### SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development, and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to residents of public housing and lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part, by persons residing in the area of the project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitment under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

## **COPELAND ANTI KICKBACK PROVISIONS**

Compliance with the Copeland Anti-Kickback Act (18 USC 874) is required. This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he is otherwise entitled. All suspected or reported violations shall be reported to the grantor agency.

## **CLEAN AIR AND WATER ACTS**

The following requirements are to be inserted in this contract and all subcontracts.

1. A stipulation by the contractor or subcontractor that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15.
2. Agreement by the contractor to comply with Executive Order 11738 and with all the requirements of Section 306 of the Clean Air Act, as amended, (42 USC 1857[n]) and section 508 of the Clean Water Act (33 USC 1368), relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said section 306 and section 508, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the contractor that he will include or cause to be included the criteria and requirements in paragraph 1 through 4 of this section in every nonexempt subcontract, and requiring that the contractor will take such action as the Government may direct as a means of enforcing such provisions.

## FAIR LABOR STANDARDS ACT

The contractor will comply with the Fair Labor Standards, Act of 1938, CH. 676, 29 USC and 201 et. seq.

### OVERVIEW

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. Covered nonexempt workers are entitled to a minimum wage of not less than \$7.25 per hour effective July 24, 2009. Overtime pay at a rate not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek.

FLSA Minimum Wage: The federal minimum wage is \$7.25 per hour effective July 24, 2009. Many states also have minimum wage laws. In cases where an employee is subject to both state and federal minimum wage laws, the employee is entitled to the higher minimum wage.

FLSA Overtime: Covered nonexempt employees must receive overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours – seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay. There is no limit on the number of hours employees 16 years or older may work in any workweek. The FLSA does not require overtime pay for work on weekends, holidays, or regular days of rest, unless overtime is worked on such days.

Hours Worked: Hours worked ordinarily include all the time during which an employee is required to be on the employer's premises, on duty, or at a prescribed workplace.

Recordkeeping: Employers must display an official poster outlining the requirements of the FLSA. Employers must also keep employee time and pay records.

Child Labor: These provisions are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being.

**\* On Thursday, January 1, 2021, an Executive Order went into effect raising the minimum wage for new federal contracts to \$10.95 an hour.**

**\* Effective January 30, 2022, the minimum wage for federal contracts will rise to \$15.00 an hour.**

**\* On September 30, 2022, the Department of Labor published a notice in the Federal Register announcing that, beginning January 1, 2023, the Executive Order 14026 minimum wage rate will increase to \$16.20 per hour (Minimum Wage for Federal Contracts Covered by Executive Order 14026, Notice of Rate Change in Effect as of January 1, 2023).**

<https://www.dol.gov/agencies/whd/flsa>

## **AGE DISCRIMINATION ACT**

It will comply with the Age Discrimination Act of 1975, Pub. L. 94-135, 42 USC Sec. 6101 et seq., which provides prohibition against discrimination on the basis of age. In addition, it will comply with the Rehabilitation Act of 1973, Pub. L. 93-112, 29 USC Sec. 701 et. seq., which provides that qualified handicapped individuals will not be discriminated against. (See 29 USC Sec. 794)

I/J

**MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE CERTIFICATION**

U. S. Department of Housing and Urban Development additional certification of status as a Minority/Women-Owned Business Enterprise:

Officers, bidders or suppliers are requested to complete, sign and attach this page, in single copy, to any bid, proposal or quote submitted under the Solicitation identified above. Completion of the certification is not a condition of eligibility for contract award.

The Bidder/Officer/Supplier certifies that he/she \_\_\_\_\_ is, \_\_\_\_\_ is not, (**check one**) a minority/women-owned business enterprise which is defined as a business which is at least 51 percent owned by one or more minority group members/women 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/women, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and Asian Indian Americans.

(Applicant/Company Name): \_\_\_\_\_

(Name of person signing): \_\_\_\_\_

(Title of person signing): \_\_\_\_\_

Signature: \_\_\_\_\_

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

## **RECORD RETENTION AND AUDITS**

The Secretary of the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of contractors and subcontractors pertaining to funds provided under this part for the purpose of making surveys, audits, examinations, excerpts and transcripts.

Financial records, supporting documents, statistical records, the environmental records required by 24 CFR 58.11, and all other records pertinent to the program, shall be retained by the contractor for a period of four years from the date of the completion of the contract. Records that are the subject of audit findings shall be retained for four years or until such audit findings have been resolved, whichever is later.

## **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (CWHSSA)**

The Contract Work Hours and Safety Standards Act (CWHSSA) applies to federal service contracts and federal and federally assisted construction contracts over \$100,000. It requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. This Act also prohibits unsanitary, hazardous, or dangerous working conditions on federal and federally financed and assisted construction projects.

The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements.



## DRUG-FREE WORKPLACE CERTIFICATION

The Subgrantee and Contractor will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about:
  - (a) The dangers of drug abuse in the workplace;
  - (b) The grantee's policy of maintaining a drug-free workplace;
  - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will:
  - (a) Abide by the terms of the statement; and
  - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted:
  - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

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Signature/Authorized Official

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Title

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Date

## **INSTRUCTIONS CONCERNING DRUG-FREE WORKPLACE REQUIREMENTS:**

By signing and/or submitting this application or grant agreement, the grantee is providing the certification.

The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

For grantees other than individuals, Alternate I will apply. (This is the information to which jurisdictions certify).

For grantees who are individuals, Alternate II applies. (Not applicable jurisdictions.)

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).

If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question.

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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Check \_\_\_ if there are workplaces on file that are not identified here; The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F.

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C.812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the

Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (I) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

## **Build America, Buy America(BABA) Act**

The bidder will comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

There are four general waivers to the Buy American Preference (BAP):

Exigent Circumstances, waiver through 11/23/2027 - if the project must be completed immediately to protect life, ensure safety, or prevent destruction of property, the BAP does not apply.

Small Grants and De Minimis, waiver through 11/23/2027 - if total project cost does not exceed the simplified acquisition threshold value (\$250,000), BAP does not apply. Also, the BAP can be waived for a portion of the materials covered by the BAP used in a project if the cost of those materials comprises no more than 5 percent of the total cost of covered materials used in the project (not to exceed \$1 million).

Tribal Recipients, waiver through 5/23/2024 - if projects are awarded to Tribes, Tribally Designated Housing Entities, and other Tribal Entities, the BAP does not apply.

Phased Implementation –

Iron and steel, waiver through 11/15/2022

\*Specifically Listed Construction Materials, waiver through 10/1/2023

Not Listed Construction Materials, waiver through 10/1/2024

Manufactured Products, waiver through 10/1/2024

\*Specifically Listed Construction Materials: non-ferrous metals, lumber, composite building materials, plastic and polymer-based pipe and tube

There are three project-specific waivers to the BAP:

Public Interest – BAP would be inconsistent with the public interest.

Nonavailability – covered products are not produced in the United States in sufficient and reasonably available quantities.

Unreasonable Cost – inclusion of domestically-produced covered products would increase the cost of the project by more than 25%.

Project-specific waivers are subject to approval by HUD, require a public comment period and require final review by OMB's Made in America Office.