



Housing Authority of the County of Merced

405 U STREET MERCED, CA 95341

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[www.merced-pha.com](http://www.merced-pha.com)

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# **REQUEST FOR PROPOSALS #2018-13**

## **Bid Documents and Specifications: *BANKING SERVICES***

**Issue Date: November 20, 2018**

**Question Deadline: November 27, 2018 5:00 p.m.**

**Proposal Due: December 4, 2018 5:00 p.m.**



**REQUEST FOR PROPOSAL (RFP) #2018-13  
BANKING SERVICES**

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## **SECTION 1 - GENERAL INFORMATION**

Housing Authority of the County of Merced, hereinafter known as the "Authority", was organized in 1942, under the U.S. Housing Act of 1937 and offers affordable housing opportunities to the County of Merced by providing accesses to a variety of services and programs to promote self-sufficiency and enhance the quality of life, specifically through housing assistance, training, education and homeownership opportunities. The Authority is governed by a seven-member Board of Commissioners.

In keeping with its mandate to provide efficient and effective services, the Authority is soliciting proposals from qualified, licensed and insured entities to provide Banking Services to the Authority. All proposals submitted in response to this solicitation must conform to all of the requirements and specifications outlined within this document and any designated attachments in its entirety.

This RFP is being issued, as well any addenda, by the Authority. The contact person for Authority is:

Sue Speer, Director of Development and Asset Management  
405 U Street - Merced, CA 95341  
Telephone: (209) 386-4137 – Fax: (209) 386-4187  
Email: [Sue@merced-pha.com](mailto:Sue@merced-pha.com)

## **SECTION 2 – AUTHORITY'S RESERVATION OF RIGHTS**

1. The Authority reserves the right to reject any or all proposals, to waive any informalities in the RFP process, or to terminate the RFP process at any time if deemed by the Authority to be in its best interest.
2. The Authority reserves the right not to award a contract pursuant to this RFP.
3. The Authority 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(s).
4. The Authority reserves the right to determine the work schedule and locations that the successful proposer(s) shall provide the services described in this RFP.
5. The Authority reserves the right to retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of the Authority.
6. The Authority reserves the right to negotiate the fees proposed by the proposer entity as described in this RFP.

7. The Authority reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including, but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested services.
8. The Authority shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
9. The Authority shall reserve the right to, at any time during the RFP or contract process, prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.

### **SECTION 3 – PROPOSAL FORMAT**

Tabbed Proposal Submittal: To demonstrate experience, proposers shall submit a Statement of Qualifications (SOQ) Proposal. The Authority intends to retain the successful proposer pursuant to a "Best Value" basis, not a "Low Bid" basis. Therefore, so that the Authority can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence detailed below. Each category must be separated by numbered index dividers (which number extends so that each tab can be located without opening the proposal) and labeled with the corresponding tab reference noted below. None of the proposed services may conflict with any requirement the Authority has published herein or has issued by addendum. SOQ Proposal submittals shall contain the following information:

- **Tab 1, Form of Proposal:** This one- page form must be fully completed, executed where provided and submitted under this tab as a part of the proposal submittal.
- **Tab 2, Form HUD 5369-A & C (11/92), *Representations, Certifications, and other Statements of Bidders*:** This six-page form must be fully completed, executed where provided and submitted under this tab as a part of the proposal submittal.
- **Tab 3, Profile of Firm Form:** This two-page form must be fully completed, executed, and submitted under this tab as a part of the proposal submittal. NOTE: As instructed, place the required resumes under Tab #5 (below).
- **Tab 4, Proposed Services:** As more fully detailed within Section 2.0, Scope of Proposal/Technical Specifications of this RFP document, the proposer shall, at a minimum, clearly detail the information submitted under this tab as follows:
  - A complete description of the services that the proposer intends to provide;
  - How staff are retained, screened, trained and monitored;

- The proposed "Schedule of Fees" as defined in Section 3.2 of this RFP;
- The proposed quality control program;
- An explanation and copies of forms that will be used and reports that will be submitted.

The Authority's property listing has been included within Section 6 of this RFP for informational purposes only. However, the Authority shall retain the right to request services at or pertaining to, any properties that the Authority deems to be in the best interest of the Authority.

- **Tab 5, Managerial Capacity/Financial Viability:** The proposer must submit under this tab a concise description of its managerial and financial capacity to deliver the proposed services, including brief professional resumes for the persons identified in areas five (5) and six (6) of the Profile of Firm Form.
- **Tab 6, Client Information:** The proposer shall submit a listing of at least three (3) former or current clients for whom the proposer has performed services similar to or the same as those being proposed that the Authority can contact to evaluate the firm's past work experience. The list shall, at a minimum, include:
  - ✓ The clients' name;
  - ✓ The clients' contact name;
  - ✓ The clients' telephone number;
  - ✓ A brief description and scope of the service(s) and the dates the services were provided.

Proposers with experience providing similar services for public agencies, and in particular public agencies that provide services and with a mission similar to the housing authority will be strongly preferred. In addition, proposers that provide services to other public entities within the central Sacramento/San Joaquin Valley geographic area will be strongly preferred.

- **Tab 7, Subcontractor/Joint Venture Information (Optional Item):** The proposer shall identify whether or not he/she intends to use any subcontractors for this job if awarded, and/or if the proposal is a joint venture with another firm. Please remember that all information required from the proposer under the proceeding tabs must also be included for any major subcontractors (10% or more) or from any joint venture.
- **Tab 8, Section 3 Business Preference Documentation (Optional Item):** For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Documentation Form attached hereto and any documentation required by that form. If the proposer does not claim any

Section 3 preference, please place hereunder a statement that "NO SECTION 3 BEING CLAIMED".

- **Tab 9, Declared Earnings Credit Rate (ECR):** The proposer must submit their Declared Earnings Credit Rate information for the past six (6) months on the form attached.
- **Tab 10, Other Information (Optional Item):** The proposer may include hereunder any other general information that the proposer believes is appropriate to assist the Authority in its evaluation. If no pertinent information is to be placed under this tab, please place hereunder a statement that "NO INFORMATION IS BEING PLACED HEREUNDER".

If no pertinent information is to be placed under any of the tabs (especially the "Optional" tabs), please place thereunder a statement such as "NO INFORMATION IS BEING PLACED UNDER THIS TAB" or "THIS TAB LEFT INTENTIONALLY BLANK".

The Authority is requiring proposers to submit the "Schedule of Fees" (brochures are acceptable), which may become part of the winning proposer's contract. Proposers shall submit the "Schedule of Fees" at a minimum of the following:

**Schedule of Fees Submittal:**

Item #	Service Description	Qty.**	U/M***
1	Checks Paid	40,000	Each
2	Deposits	400	Each
3	ACH Credit	300	Each
4	ACH Debit	350	Each
5	Return Items	50	Each
6	FDIC Assessment	12	Each
7	Monthly Account Maintenance (All 13 Accounts)	12	Monthly
8	Stop Payments	150	Each
9	Courier Service; 1/day	150	Each
10	Outgoing Wire Transfer	15	Each
11	Reproduction of Copies	2	Each
12	Currency Deposit	10	Each
13	Positive Pay	50	Each
14	Internet Access Fees	12	Monthly
15	Other (Annualize any other fees and costs and enter here)	1	Each

\*\*Estimated Annual Usage    \*\*\*U/M = Unit of Measure (typically, "Each" or "Months")

**SECTION 4 – PROPOSAL SUBMISSION**

All proposals must be submitted, time-stamped, and received in the Authority Business Office by no later than the submittal deadline stated or within any ensuing addendum. A total of one (1) original signature copy (marked "ORIGINAL") and three (3) exact copies of the proposal submittal, each complete

with cover and extending tabs, shall be placed, unfolded, in a sealed package and addressed to:

Sue Speer  
Director of Development & Asset Management  
RFP: 2018-13  
405 U Street  
Merced, CA 95341

The package exterior must clearly denote the above-noted RFP number and must have the proposer's name and return address. Proposals submitted after the published deadline will not be accepted. Late, emailed, or faxed submittals will not be accepted.

- 1. Submission Conditions: DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED.** Proposers are not allowed to change any requirements or forms contained herein, either by making or entering on these documents or the documents submitted, any revisions or additions. If any such additional marks, notations or requirements are entered on any of the documents that are submitted to the Authority by the proposer, that proposal may be invalidated. If, after accepting such a proposal, the Authority decides that any such entry has not changed the intent of the proposal, the Authority may accept the proposal and the proposal shall be considered by the Authority as if those additional marks, notations or requirements were not entered.
- 2. Submission Responsibilities:** It shall be the responsibility of each proposer to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth in all applicable documents issued by the Authority, including the RFP document, the documents listed within the RFP, and any addenda and required attachments submitted by the proposer. By virtue of completing, signing and submitting the completed documents, the proposer is stating his/her agreement to comply with all conditions and requirements set forth in those documents. Written notice from the proposer not authorized in writing by the Authority to exclude any of the Authority requirements contained within the documents may cause the proposer to not be considered for the award.
- 3. Proposer's Responsibility-Contact with the Authority:** It is the proposer's responsibility to address all communication and correspondence pertaining to this RFP process to the Authority Business Office only. Proposers may not make an inquiry or communicate with any other Authority staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for the Authority to not consider a proposal submittal received from any proposer who may have not abided by this directive.
- 4. Attachments:** Are all provided with this RFP.

## SECTION 5 – PROPOSAL EVALUATION

**1. Evaluation Method:** The Authority will evaluate each proposal submitted in accordance with the RFP procedures shown in Chapter 7 of the HUD Procurement Handbook No. 7460.8 REV 2 and within the Authority's Procurement Policy.

- Proposals shall be reviewed, evaluated, and ranked by Authority staff.
- Restrictions: All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on the Authority evaluation panel. Similarly, all persons having an ownership interest in and/or contract with a proposing entity will be excluded from participation on the Authority's evaluation panel.
- Staff, with or without an External Panel, shall review and rank the submittals based on the evaluation criteria in the following section. Based on the submittals and price negotiation results, proposer(s) shall be recommended to the Authority's Executive Director for the award of a Professional Banking Services contract.
- Although desirable, the Authority recognizes that the selected service proposer(s) may not have experience or capacity to provide professional services in all areas. In such event, the firm may supplement their capabilities by teaming with sub-consultants. In such cases, proposers shall identify these sub-consultants, as their expertise will be considered by the Authority in addition to the proposer's capabilities as described in the evaluation criteria in the section below.

**2. Evaluation Criteria:** The following factors will be utilized by the evaluation committee appointed by the Authority to evaluate each proposal submittal received; award of points for each listed factor will be based upon the documentation that the proposer submits within his/her proposal.

NO.	MAX POINT VALUE	CRITERION DESCRIPTION
1	15 points	<b>Proposed Costs Charged to the Authority</b>
2	15 points	<b>Net Earnings Allowance less Service Fees</b> – the response will be compared for the highest net earnings. This category is defined by deducting costs from earned credits and interest.
3	20 points	<b>Quality of Service</b> - Responses will be compared to determine services and technologies available, as well as the convenience of branch offices. Structure of customer service will be taken into consideration.



4	20 points	<b>Meets banking requirements of the Authority</b> – Responses will be compared to determine how effectively the general banking needs of the Agency are met by the services provided. The past performance of the proposer on prior work of the same or similar nature, based on the letters of reference and/or client lists submitted and based upon the results of any consultation that the Authority chooses to conduct with such.
5	30 points	<b>Specialized Knowledge</b> – Responses will be compared for display of understanding of the special needs of the Authority. Responses will be compared to determine the proposer experience providing similar services for other Housing Authorities and Public Agencies, and providing services within the San Joaquin Valley region.
	100 points	<b>Maximum Points (before Section 3 below)</b>

**Preference Evaluation Factor:** The following factors will be utilized by the staff member assigned by the Authority to evaluate each proposal submitted:

NO.	MAX POINT VALUE	FACTOR DESCRIPTION
6	5	<b>SECTION 3 BUSINESS PREFERENCE PARTICIPATION:</b> A firm may qualify for preference points as detailed within.
	105 Points	<b>Total Possible</b>

## SECTION 6 – CONTRACT AWARD

If a contract is awarded pursuant to this RFP, the following detailed procedures will be followed:

1. Upon final completion of the proposal evaluation process, the Authority designated staff will formulate and forward to the Authority's Executive Director for consideration and approval of a written award recommendation. The Executive Director may choose to approve the award or may approve staff to take the award recommendation to the Authority's Board of Commissioners at a scheduled board meeting for approval. If so, the Authority's Board will then make its determination whether or not to follow the panel's recommendation. If the recommendation is followed and the top-rated proposer is approved for award. Contract price negotiations may, at the Authority's option, be conducted prior to or after the Board's approval.
2. Contract Conditions: The following provisions are considered mandatory conditions of any contract award made by Authority pursuant to this RFP:
3. Contract Form: The Authority will not execute a contract on the successful proposer's form. Contracts will only be executed on the Authority's form (please see Sample Contract which is included as Attachment F of this RFP document). By submitting a proposal, the successful proposer agrees to do so. Please note that the Authority reserves the right to amend this form as the Authority deems necessary. However, the Authority will consider any contract clauses that the proposer wishes to include. The failure of the

Authority to include such clauses does not give the successful proposer the right to refuse to execute the Authority's contract form. It is the responsibility of each prospective proposer to notify the Authority in writing prior to submitting a proposal, of any contract clause that the proposer is not willing to include in the final executed contract and abide by. The Authority will consider and respond to such written correspondence, and if the prospective proposer is not willing to abide by the Authority's response (decision), then that prospective proposer shall be deemed ineligible to submit a proposal.

4. **Assignment of Personnel:** The Authority shall retain the right to demand and receive a change in personnel assigned to the work if the Authority believes that such change is in the best interest of the Authority and the completion of the contracted work. Contractor shall select and employ the replacement personnel.
5. **Unauthorized Sub-Contracting Prohibited:** The successful proposer shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the Authority's Executive Director. Any purported assignment of interest or delegation of duty, without the prior written consent of the Executive Director, shall be void. It may result in the cancellation of the contract with the Authority, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract; either as determined by the Executive Director.
6. **Contract Period:** The Authority anticipates that it will initially award a contract for a period of three (3) years. At the option of the Authority, it may be extended for two (2) additional one-year extension periods. However, the Authority shall retain the right to contract with the successful proposer for any amount of time that, in the opinion of the Authority, it takes to conclude any matter that the successful proposer may begin work on within the noted five (5) year contract period.
7. **Licensing and Insurance Requirements:** Prior to award (but not prior to submission of the proposal) the successful proposer will be required to provide:
  - The contractor shall provide to the Authority with copies of any required current City, State and/or Federal licenses. Failure to maintain these licenses in a current status during the term(s) of this contract shall constitute a material breach thereof.
  - If applicable, a copy of the proposer's license issued by the State of California licensing authority allowing the proposer to provide the services detailed herein.

- The requested related information shall also be entered where provided for on the Profile of Firm Form. DO NOT ATTACH COPIES TO THE PROPOSAL SUBMITTED. The Authority will garner the necessary certificates from the successful proposer prior to contract execution.

**8. Right to Negotiate Final Fees:** The Authority shall retain the right to negotiate the amount of fees that are paid to the successful proposer. The fees proposed by the top-rated proposer may, at the Authority's option, be the basis for the beginning of negotiations. Such negotiations shall begin after the Authority evaluation panel has chosen a top-rated proposer. If such negotiations are not, in the opinion of the Authority's Executive Director, successfully concluded within five (5) business days, the Authority shall retain the right to end such negotiations and begin negotiations with the next rated proposer. The Authority shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e. top-rated first, then next-rated following until a successful negotiation is reached).

**9. Requirements Contract/Task Order Basis:** The Authority does not at this time know the full extent of the work that the Authority will need the successful proposer to perform. The quantities listed in the cost proposal area shall be considered to be calculation factors only. The Authority will evaluate each proposer's cost proposal on an equitable basis.

**10.** Therefore, the proposed contract shall be considered to be a Requirements Contract (RC) with work ordered on a task order basis. This means that the Authority will order work on an as-needed basis, and the successful proposer will provide the work pursuant to the unit costs proposed and/or negotiated.

**11.** The Authority reserves the right to order any quantity of work pursuant to the proposed contract. This means that there shall be no minimum or maximum amount of work that will be ordered, either on an individual order basis or in total. However, any such work ordered will be in conformance with an Authority Board-approved budget, a specific Not to Exceed (NTE) amount approved by the Authority's Board of Commissioners and shall not exceed the NTE amount listed on the current contract.

**12.** Contract Service Standards: All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal laws.

**1. Addenda/Addendum and Update Procedures for the RFP:** During the period of advertisement for this RFP, Authority may wish to amend, add to or delete from, the contents of this RFP. In such situations, Authority will issue an Addenda/Addendum to the RFP setting forth the nature of the modification(s). Authority will email, fax or send via regular U.S. Postal Service Mail (upon written request), to all known Proposers, any Addenda/Addendum to the

Proposers of the RFP solicitation. Interested parties may also view Addenda/Addendum on Authority's website [www.merced-pha.com](http://www.merced-pha.com). It shall be the responsibility of each Proposer to ensure that they have any/all Addenda/Addendum relative to this RFP.

2. **Contact with Authority staff, Board Members and/or Residents:** Under no circumstances may any Authority Board Member or any Authority staff member other than the contact person specified within this RFP be contacted during this RFP process by any entity intending to submit a response to this RFP. Failure to comply with this request will result in disqualification. All questions shall be in writing and directed to the contact person as listed within this RFP.

## **SECTION 7 - SUPPLEMENTAL INSTRUCTIONS TO PROPOSERS**

1. **Acceptance of Proposal:** Proposals must be signed and received, in completed form, at the Authority prior to the proposal due date and time. Proposals submitted after the designated due date and time will not be accepted for any reason and will be returned unopened to the sender.
2. **Time for Reviewing Proposals:** Proposals received prior to the due date and time will be securely kept and remain unopened. Proposals received after the due date and time will not be considered. All proposals properly received will be evaluated by an Authority Evaluation Committee appointed by the Executive Director.
3. **Withdrawal of Proposals:** Proposals may be withdrawn by written notice or facsimile transmission received at any time prior to award and provided that withdrawal request has the signature of the authorized representative.
4. **Award of Contract(s):** Contract shall be awarded to the Proposer whose proposal best meets the needs of the Authority. The Proposer to whom the award is made will be notified at the earliest practicable date.
5. **HUD Debarment and Suspension List:** Contract shall not be awarded to a contractor which has been debarred, suspended or otherwise ineligible for participation, in accordance with Federal regulations (24 CFR, part 24 and 24 CFR, part 85) and in accordance to State of California law.
6. **No Claim Against Authority:** A Proposer shall not obtain, by submitting a proposal in response to this RFP, any claim against Authority or Authority's property by reason of all or any part of any of the following: any aspect of this RFP; the selection process; the rejection of any or all offers; the acceptance of any offer; entering into any agreements or the failure to enter into any agreements; any statement, representations, acts or omissions of the Authority or any person or entity on its behalf; the exercise of any discretion set forth in or concerning any of the foregoing; and any other matters arising out of the foregoing.

7. **Best Available Data:** All information contained in this RFP is the best data available to the Authority at the time the RFP was prepared. The information given in the RFP is not intended as representation having a binding legal effect. This information is furnished for the convenience of the Proposers and Authority assumes no liability for any errors or omissions.
8. **Licenses:** The Proposers shall have and maintain all required licenses necessary to conduct business in Cities of Merced, Atwater, Livingston, Dos Palos, Los Banos, the County of Merced and State of California. All licenses must be kept up-to-date for the duration of this contract. Copies of all licenses must be submitted at or prior to contract signing.
9. **Proposer Responsibilities:** Each Proposer is presumed by Authority to have thoroughly studied this RFP and is familiar with the contents, locations, nature of the request, etc. covered by the RFP. Any failure to completely understand this RFP is the responsibility of the Proposer.
10. **Release of Information:** Information submitted in response to this RFP will not be released by Authority during the proposal evaluation process or prior to a contract award.
11. **Proprietary Information:** If a Proposer does not desire certain proprietary information in their response disclosed, the Proposer is required to identify all propriety information in the response, which identification shall be submitted concurrently with the response. If the Proposer fails to identify proprietary information, it agrees by submission of its response that those sections shall be deemed nonproprietary and may be made available upon public request after a contract award.
12. **Indemnity:** Contractor shall indemnify and defend Authority, its officers, officials, employees, volunteers, agents and assigns and hold it harmless from and against any and all claims, demands, liability, damage, costs, expenses, awards, fines, judgements and attorney fees arising out of or in any way connected with the performance of this Contract. The indemnity shall apply to any acts, omissions, willful misconduct, or negligent conduct, whether active or passive unless liability is caused solely by the negligent or willful misconduct of Authority. Proposer will, on request and at its own expense, defend any action, suit or proceeding arising hereunder and shall reimburse and pay Authority for any loss, cost, damage or expense, including attorney fees (including those of in-house counsel) suffered by it hereunder.

## **SECTION 8 – RIGHT TO PROTEST**

Rights: Any prospective or actual proposer or contractor, who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. Such right only applies to a serious violation of the Authority procurement policy.

1. **Definition:** An alleged aggrieved “protestant” is a prospective proposer or proposers who feels that he/she/they has been treated inequitably by Authority and wishes Authority to correct the alleged inequitable condition or situation.
2. **Eligibility:** To be eligible to file a protest with Authority pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a perspective proposer (i.e. recipient to the RFP documents) when the alleged situation occurred. Authority has no obligation to consider a protest filed by any party that does not meet these criteria.
3. **Procedure:** Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of Authority ‘s procurement policy. Any protest against an Authority 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 contract award or the protest will not be considered.

All protests must be in writing and submitted to the Contracting Officer or his/her designee for a written decision. The Contracting Officer or his/her designee will issue a written decision and findings to the Protester or Protesters within thirty (30) calendar days from receipt of the written protest. This decision is then appealable to the Board of Commissioners within five (5) calendar days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be appropriately marked and sent to the address as listed below:

APPEAL OF RFP # 2018-13  
Housing Authority of the County of Merced  
ATTN: Executive Director  
405 U Street, Merced, Ca 95341

**SCOPE OF WORK**  
**Banking Services**

**SCOPE OF PROPOSAL/TECHNICAL SPECIFICATIONS:**

The Housing Authority of the County of Merced (Authority) is seeking proposals from qualified, licensed and bonded entities to provide banking services. The work plan or program description submitted under the Profile of Firm Form shall fully detail how the proposer intends to provide such services as follows:

**Automated Clearing House (ACH):** No further description.

**Account Statements (AS):** Within five (5) business days of the end of each calendar month, provide the Authority with monthly statements showing overall activity for each of the individual Authority accounts.

**Collateral Securities (CS):** Collateralize all Authority funds and investments over the Federal Deposit Insurance Corporation (FDIC) limits pursuant to all applicable California statutes and HUD regulations.

**Demand Deposit Account (DDA):** Pertains to checking accounts. Maintains thirteen (13) checking accounts for Authority programs to facilitate funds received from all Federal and State agencies.

**Deposit Slips (DS):** Provide the Authority specially encoded deposit slips with duplicate for normal deposits. Bank shall provide initial set to the Authority to insure account titles and numbers are consistent.

**Inter-fund Transfers (IT):** Provide on-line transfers between all listed accounts.

**Investment:** Be able to provide a wide range of investment services.

**Monthly Account Analysis Reports (MAAR) / Daily Cash Balance Reports (DCBR):** Shall be provided to the Authority through the Internet.

**Notice of Change (NOC):** Must be delivered to the Authority within 1 work day of receipt.

**Positive Pay:** Prevent fraud by detecting unauthorized or counterfeit checks. Allow the Authority to review exceptions, make on-the-spot corrections, download images of exceptions to help make a pay/no pay decision and create register entries for all exception items before the final payment. Also provide email notifications of any positive pay exceptions.

**Proper Check Authorizations (PCA):** Ensure that proper Authority signature is on an Authority check presented for payment.

**Savings Accounts (SA):** Maintain accounts for Authority programs that require such accounts.

**Stop Payments (SP):** In a timely and appropriate manner, facilitate all stop payment requests received from the Authority. Must have capability to enter via the Internet.

**Wire Transfers (WT):** Be able to provide wire transfer services online and shall guarantee immediate credit on all such transfers upon receipt (next day credit on U.S. Treasury checks).

**Check Retention:** Proposer shall ensure retention of check copies or system of retrieval of cleared items for a period of seven (7) years.

**Secure Internet Access:** Provide secure internet access to all bank accounts.

**Other Services:** Submit a full description of any additional services not detailed herein that are available to the Authority or its employees.

Current Accounts: The Authority currently has the following 13 accounts:

Account Name	Type
Account 1	Checking
Account 2	Checking
Account 3	Checking
Account 4	Checking
Account 5	Checking
Account 6	Checking
Account 7	Checking
Account 8	Checking
Account 9	Checking
Account 10	Checking
Account 11	Checking
Account 12	Checking
Account 13	Checking

**One System Only:** The successful proposer must provide one system only for all accounts. The Authority must be able to go to the Internet and download all reports and conduct all services, including:

- Account balances
- Items cleared prior day
- All transfers completed
- Deposits completed
- Wires completed

**FDIC Insured:** The successful proposer will be required to present proof that it is an FDIC-insured institution.

**Agency Investment Policy:** By submitting a proposal, all proposers agree to comply with the Authority's Investment Policy.

**Collateralization of Deposits:** HUD guidelines require the successful proposer to sign a general depository agreement and meet any statutory requirements to provide services, including:

- Eligible collateral instruments
- Independent third party safekeeping requirement
- Substitution requirements
- Respondent must confirm agreement to HACSB's conditions
- Respondent must provide name of custodian(s) to be used and information on the financial condition of the institution

Please specifically address that your financial institution will sign the required HUD Form 51999 (General Depository Agreement) at NO additional charge to the Authority.

**Deposit Processing and Remote Deposit Capture:**

- The proposer will provide the ability to deposit checks using remote deposit capture. A check scanner and appropriate software will be provided to the Authority to digitally capture the check images for deposit. The deposit will be balanced and an electronic



deposit slip created. The file would then be transmitted to the bank through a secure website for posting to the applicable operating account. Proposer shall describe its remote deposit capture services to include related costs to the Authority.

- The Proposer will specify the requirements for depositing checks and currency along with its availability schedule for deposited items: cash, instate checks, out-of-state checks, foreign checks, etc.

**Branch Operations:**

The proposer must be a Federal or State of California chartered banking institution with full service branch banking facilities located within the boundaries of Merced County.

The successful respondent shall furnish all necessary labor, materials, equipment, and oversight necessary to provide banking services to the Authority. All banking services are expected to be in compliance with Authority policies and finance department procedures (See Attached).

## FORM OF PROPOSAL

(This Form must be fully completed and placed under Tab No. 1 of the "hard copy" tabbed proposal submittal.)

**Instructions:** Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the "hard copy" proposal submittal submitted by the proposer. Also, complete the Section 3 Statement and the Proposer's Statement as noted below:

X=ITEM INCLUDED	SUBMITTAL ITEMS <i>(Three copies of each proposal, including one with original signatures)</i>
	Tab 1 Form of Proposal (Attachment A)
	Tab 2 Form HUD-5369-C (Attachment B)
	Tab 3 Profile of Firm Form (Attachment C)
	Tab 4 Proposed Services
_____	Tab 5 Managerial Capacity/Financial Viability, including resumes and Summary of Bank's Condition
	Tab 6 Client Information
	Tab 7 Equal Employment Opportunity Statement
	Tab 8 Subcontractor/Joint Venture Information (Optional)
_____	Tab 9 Section 3 Business Preference Documentation (Optional; Attachment D)
	Tab 10 Other Information (Optional)
_____	Tab 11 Declared Earnings Allowance for the Past 6 Months (Attachment H)

### SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES or NO . If "YES," pursuant to the Section 3 portion within the Conditions and Specifications, and pursuant to the documentation justifying such submitted under Tab No. 9, which priority are you claiming?

\_\_\_\_\_

### PROPOSER'S STATEMENT

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this proposal submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if the HA discovers that any information entered herein to be false, such shall entitle the HA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, and by entering and submitting the costs where provided within the noted Internet System, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HA, either in hard copy or on the noted Internet System, including an agreement to execute the attached Sample Contract form. Pursuant to all RFP Documents, this Form of Proposal, and all attachments, and pursuant to all completed Documents submitted, including these forms and all attachments, the undersigned proposes to supply the HA with the services described herein for the fee(s) entered within the areas provided within the noted Internet System pertaining to this RFP.

\_\_\_\_\_  
 Signature                                      Date                                      Printed Name                                      Company

HOUSING AUTHORITY OF THE COUNTY OF MERCED

# Certifications and Representations of Offerors

## Non-Construction Contract

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

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offerors 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

---

<b>PROFILE OF FIRM FORM</b>
-----------------------------

1. Prime \_\_\_\_\_ Sub-contractor \_\_\_\_\_ (This form must be completed by and for each).

2. Name of Firm: \_\_\_\_\_

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

Cell: \_\_\_\_\_

Email: \_\_\_\_\_

Secondary Email: \_\_\_\_\_

3. Street Address, City, State, Zip: \_\_\_\_\_

\_\_\_\_\_

4. Mailing Address, City, State, Zip (if different) \_\_\_\_\_

\_\_\_\_\_

5. Please attached a brief biography/resume of the company, including the following information:

(a) Year Firm Established; (b) Former Business Name and Year Established (if applicable).

(b) Identify Principals/Partners in Firm:

NAME	TITLE	% OF OWNERSHIP

(c) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project:

NAME	TITLE

(d) Proposer Diversity Statement: You must circle all of the following that apply to the ownership of this firm and enter, where provided, the correct percentage (%) of ownership of each:

Caucasian (Male) \_\_\_\_\_%     Caucasian (Female) \_\_\_\_\_%     Public-Held Corporation \_\_\_\_\_%     Government Agency \_\_\_\_\_%     Non-Profit Organization \_\_\_\_\_%

(e) Resident- (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise ~ Qualifies by virtue of 51% or more ownership and active management by one or more of the following:

Resident Owned \_\_\_\_\_%     African American \_\_\_\_\_%     Native American \_\_\_\_\_%     Hispanic \_\_\_\_\_%     Asian/Pacific Islander \_\_\_\_\_%     Woman Owned \_\_\_\_\_%

Disabled Veteran \_\_\_\_\_%     Other (Specify): \_\_\_\_\_%

WMBE Certification Number: \_\_\_\_\_

Certified by (Agency): \_\_\_\_\_  
*(NOTE: A CERTIFICATION/NUMBER NOT REQUIRED TO PROPOSE – ENTER IF AVAILABLE)*

(f) Federal Tax ID No.: \_\_\_\_\_

(g) City/County Business Licenses: \_\_\_\_\_ #  
\_\_\_\_\_  
(State Jurisdiction)

(h) Worker's Compensation Insurance Carrier: \_\_\_\_\_  
Policy No.: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

(i) General Liability Insurance Carrier: \_\_\_\_\_  
Policy No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_

(j) Automobile Liability Insurance Carrier: \_\_\_\_\_  
Policy No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_

(k) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government,

any state government, the State of California or any local government agency within or without the State of California?

Yes  No

*If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.*

(I) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner, Officer and/or Employee(s) of the HA?

Yes  No

*If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.*

Verification Statement: The undersigned proposer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HA discovers that any information entered herein is false, that shall entitle the HA to not consider nor make award or to cancel any award with the undersigned party.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Company**

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

NAME OF BUSINESS: \_\_\_\_\_

ADDRESS OF BUSINESS: \_\_\_\_\_

TYPE OF BUSINESS:     Corporation     Partnership     Sole Proprietorship     Joint Venture

Attached is the following documentation as evidence of status:

**For business claiming status as a Section 3 resident-owned Enterprise:**

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

**For the 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/stockholder and % of each                                | <input type="checkbox"/> Corporation Annual Report    |
| <input type="checkbox"/> Latest Board minutes appointing officers                                | <input type="checkbox"/> Additional documentation     |
| <input type="checkbox"/> Organization chart with names and titles and brief functional statement |   |

**For business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 business:**

List of subcontracted Section 3 business and subcontract amount

**For business claiming Section 3 status, claiming at least 30% 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 all employees claiming Section 3 status                                |
| <input type="checkbox"/> PHA 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:**

- |   |  |
|---|--|
| <input type="checkbox"/> Current financial statement    | <input type="checkbox"/> List of owned equipment                                       |
| <input type="checkbox"/> Statement of ability to comply | <input type="checkbox"/> List of all contracts for the past 2 years with public policy |

**Corporate Seal**

**AUTHORIZING NAME AND SIGNATURE:**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name



**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES**

Number Of All Contracts Proposed: \_\_\_\_\_

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

Dollar Value Of All Contracts Proposed: \_\_\_\_\_

Project: \_\_\_\_\_

To The Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation Or Bid To Qualified Project Area Businesses.

Goal Of These Contracts For Project Area Businesses:

PROPOSED TYPE OF CONTRACT	APPROX. COST	PROPOSED TYPE OF CONTRACT	APPROX. COST

Outline The Program To Achieve These Goals For Economically And Socially Disadvantaged:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE: To Complete The Affirmative Action Plan, Follow Steps Outlines In Attached Exhibit.**

SUGGESTED SECTION 3 PRELIMINARY WORKFORCE STATEMENT UTILIZATION OF LOWER INCOME PROJECT AREA RESIDENTS AS REGULAR, PERMANENT EMPLOYEES, TRAINEES, APPRENTICES.

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PROJECT: \_\_\_\_\_

	PRESENT PERMANENT EMPLOYEES (At Time of Contract Signing)	SECTION 3 WORKFORCE PROJECTION (Residents)	TOTAL PROJECTED WORKFORCE INCREASE
TRAINEES			
APPRENTICES			
JOURNEYPERSONS			
LABORERS			
SUPERVISORY			
SUPERINTENDENT			
PROFESSIONAL			
CLERICAL			

**NOTE:** RESIDENTS ARE THOSE LOWER INCOME PROJECT AREA RESIDENTS WHO HAVE BEEN QUALIFIED AS ELIGIBLE.

## SECTION 3 BUSINESS PREFERENCE CLAUSE

*This contract is subject to the following conditions under Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3).*

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor or organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 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 this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprise. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

## PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES

The HA has established the following priority for preference when providing contracting opportunities to Section 3 Businesses:

### Priority I

#### Category 1a Business

Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3-covered assistance is expended.

### Priority II

#### Category 1b Business

Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.

### Priority III

#### Category 2a Business

Business concerns that are 51 percent or more owned by residents of any other housing development or developments.

### Priority IV

#### Category 2b Business

Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.

### Priority V

#### Category 3 Business

Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistance is expended.

### Priority VI

#### Category 4a Business

Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.

### Priority VII

#### Category 4b Business

Business concerns that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

### Eligibility for Preference

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.

HUD directs within 24 CFR 135 that the HA may make award to qualified Section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid is:

- (a) within the maximum total contract price established by the HA; or
- (b) not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

"X" = LESSOR OF:	
When the lowest responsive bid is less than \$100,000	10% of that bid, or \$9,000.00
When the lowest responsive bid is at least:	
\$100,000.00, but less than \$200,000.00	9% of that bid, or \$16,000.00
\$200,000.00, but less than \$300,000.00	8% of that bid, or \$21,000.00
\$300,000.00, but less than \$400,000.00	7% of that bid, or \$24,000.00
\$400,000.00, but less than \$500,000.00	6% of that bid, or \$25,000.00
\$500,000.00, but less than \$1,000,000.00	5% of that bid, or \$40,000.00
\$1,000,000.00, but less than \$2,000,000.00	4% of that bid, or \$60,000.00
\$2,000,000.00, but less than \$4,000,000.00	3% of that bid, or \$80,000.00
\$4,000,000.00, but less than \$7,000,000.00	2% of that bid, or \$105,000.00
\$7,000,000.00, or more	1.5% of the lowest responsive and responsible bid with no dollar limit

# General Conditions for Non-Construction Contracts

## Section I – (With or without Maintenance Work)

### U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/01/2014)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

=====  
**Section I - Clauses for All Non-Construction Contracts greater than \$100,000**  
=====

### 1. Definitions

The following definitions are applicable to this contract:

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

### 2. Changes

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

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

### 3. Termination for Convenience and Default

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

### 4. Examination and Retention of Contractor's Records

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

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

#### 5. Rights in Data (Ownership and Proprietary Interest)

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

#### 6. Energy Efficiency

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

#### 7. Disputes

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

#### 8. Contract Termination; Debarment

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

#### 9. Assignment of Contract

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

#### 10. Certificate and Release

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

#### 11. Organizational Conflicts of Interest

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

#### 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

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

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

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

### 15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:



(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

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## 16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall 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 (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, 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.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

## 17. Dissemination or Disclosure of Information

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

## 18. Contractor's Status

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

## 19. Other Contractors

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

## 20. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 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 this contract for default, and debarment or suspension from future HUD assisted contracts.

## **22. Procurement of Recovered Materials**

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

## **INSURANCE REQUIREMENT FOR CONSULTANTS**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, its agents, representatives, employees or subcontractors.

### **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CGOOO1 1188)
2. Insurance Services Office form number CA 00 01 06 92 covering Automobile Liability, code 1 (anyauto).
3. Errors and Omissions liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.
4. Workers' Compensation insurance as required by State law and Employer's Liability Insurance.

### **Minimum Limits of Insurance**

Consultant shall maintain limits no less than:

- I. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions liability: \$1,000,000 per occurrence.
5. Workers' Compensation: Statutory Limit.

### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the Housing Authority of the County of Merced (Authority). At the option of the Authority, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its

officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### **Other insurance Provisions**

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Authority, its officers, officials, employees and volunteers are to be covered as insurers as respects: liability arising out of work or operations performed by or on behalf of the consultant; or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Authority, its officers, officials, employees or volunteers shall be excess of the consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Authority.

### **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI, unless otherwise acceptable to the Authority.

### **Verification of Coverage**

Consultant shall furnish the Authority with original certificates and amendatory endorsements effecting coverages and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Authority or on other than the Authority's forms provided those endorsements conform fully to Authority requirements. All certificates and endorsements are to be received and approved by the Authority before work commences in sufficient time to permit contractor to remedy any deficiencies. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

### **Subcontractors**

Contractor shall include all subcontractors as insurers under its policies or seal furnish separate certificates and endorsements for each subcontractor in a manner and in such time as to permit Authority to approve them before subcontractors' work begins. All coverages for subcontractors shall be subject to all of the requirements stated herein.

## HOUSING AUTHORITY OF THE COUNTY OF MERCED DEBT MANAGEMENT POLICY

This Debt Management Policy (the "Debt Policy") of the Housing Authority of the County of Merced was approved by the Board of Commissioners on August 21, 2018. The Debt Policy may be amended by Board of Commissioners as it deems appropriate from time to time in the prudent management of the debt of the Housing Authority.

This Debt Policy will apply to all debt issued by the Housing Authority.

The Debt Policy has been developed to provide guidance in the issuance and management of debt by the Housing Authority and is intended to comply with Government Code Section 8855(i), as amended, effective on January 1, 2017 and applicable regulations of the California Debt Limit Allocation Committee ("CDLAC"). The main objectives are:

- To establish conditions for the use of debt;
- Reference the types of debt the Housing Authority may issue
- To ensure that debt capacity and affordability are adequately considered;
- Describe the Housing Authority's policy goals related to its planning goals and objectives to promote the construction and rehabilitation of affordable residential rental housing for persons and families of very low, low and moderate income; and
- To maintain financial flexibility for the Housing Authority.

Debt, properly issued and managed, is a critical element in any financial management program. It assists in the Housing Authority's effort to allocate limited resources to provide the highest quality of service to the public. The Housing Authority understands that a properly managed debt program promotes the production and maintenance of affordable housing.

### FINDINGS

This Debt Policy shall govern all financings undertaken by the Housing Authority. The Housing Authority hereby recognizes that a fiscally prudent debt policy is required in order to:

- Maintain the Housing Authority's sound financial position.
- Protect the Housing Authority's credit-worthiness.
- Ensure that all debt is structured in order to protect both current and future beneficiaries of the Housing Authority's resources.
- Ensure that the Housing Authority's debt is consistent with the Housing Authority's planning goals and objectives and capital improvement program or budget, as applicable.

- Ensure compliance with applicable U.S. Department of Housing and Urban Development regulations.

## POLICIES

### A. Purposes For Which Debt May Be Issued

The Housing Authority will consider the use of debt financing primarily to provide for decent, safe and sanitary dwelling accommodations for persons and families of low income consistent with the provisions of the Housing Authorities Law (section 34200 et seq. of the Health and Safety Code) and any applicable federal rules or regulations, and when resources are identified sufficient to fund the debt service requirements. Bonded debt should not be issued for projects with minimal public benefit, or to finance normal operating expenses.

For any project which is expected to use debt financing, the Executive Director, working with Housing Authority Staff, shall determine reasonable cost estimates, as well as expected sources of revenue that will provide payment for debt service. This will allow an analysis of the project's potential impact, if any, on the Housing Authority's debt capacity and limitations. The Executive Director shall also determine an estimate of any incremental operating and/or additional maintenance costs associated with the project and identify sources of revenue, if any, to pay for such incremental costs.

(i) Long-Term Debt. Long-term debt may be issued to finance or refinance the construction, acquisition, and rehabilitation of housing facilities and related improvements, and other capital assets to be owned by the Housing Authority, as well as for housing facilities to be owned by others (referred to as "conduit financing" in this Debt Policy and more particularly described in Exhibit A attached to this Debt Policy).

(a) Long-term debt financings are appropriate when one or more of the following conditions exist:

- When the project to be financed is necessary to provide decent, safe and sanitary housing to persons and families of low income.
- When the project is within the Area of Operation of the Housing Authority.
- When the project to be financed will provide benefit over multiple years.
- When total debt does not constitute an unreasonable burden to the Housing Authority.
- When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.

- When the debt will be used to finance a project in furtherance of a program administered by the Housing Authority.

(b) Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.

(c) The Housing Authority may use long-term debt financings subject to the following conditions:

- The project to be financed has received all necessary land use entitlements.
- The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%, unless specific conditions exist that would mitigate the extension of time to repay the debt and it would not cause the Housing Authority to violate any covenants to maintain the tax-exempt status of such debt, if applicable.
- The Housing Authority estimates that sufficient funds will be available to service the debt through its maturity.
- The Housing Authority determines that the issuance of the debt will comply with the applicable requirements of the Health and Safety Code and federal law.

(d) Periodic reviews of outstanding long-term debt will be undertaken to identify refunding opportunities. Refunding will be considered (within federal tax law constraints, if applicable) if and when there is a net economic benefit of the refunding. Refundings which are non-economic may be undertaken to achieve Housing Authority objectives relating to changes in covenants, call provisions, operational flexibility, or the debt service profile.

In general, refundings which produce a net present value savings of at least three (3) percent of the refunded debt will be considered economically viable. Refundings which produce a net present value savings of less than three (3) percent or negative savings will be considered on a case-by-case basis.

(ii) Short-term debt. Short-term borrowing may be issued to generate funding for cash flow needs in the form of tax and revenue anticipation notes.

Other forms of short-term borrowing may be considered as an interim source of funding in anticipation of long-term borrowing. Short-term debt may be issued for any purpose for which long-term debt may be issued, including capitalized interest and other



financing-related costs. Prior to issuance of the short-term debt, a reliable revenue source shall be identified to secure repayment of the debt.

Short-term debt may also be used to finance short-lived capital projects; for example, the Housing Authority may undertake lease-purchase financing for equipment, and such equipment leases may be longer than 7 years.

(iii) Financings on Behalf of Other Entities. The Housing Authority may also find it beneficial to issue debt on behalf of private third parties in order to further the public purposes of Housing Authority related to the production of affordable multifamily rental housing. Any such conduit financing shall be subject to the provisions set forth in detail in Exhibit A to this Debt Policy.

## **B. Types of Debt**

In order to maximize the financial options available to further the purposes of the Housing Authority, it is the policy of the Housing Authority to allow for the consideration of issuing all generally accepted types of debt, including, but not exclusive to the following:

- General Obligation (GO) Bonds: General obligation bonds are suitable for use in the construction or acquisition of improvements to real property that will be owned by the Housing Authority.
- Revenue Bonds: Revenue bonds are limited liability obligations tied to a specific project or revenue stream. An example of a project that would be financed by a revenue bond would be a stand-alone housing facility that is expected to generate sufficient revenue to repay the related revenue bonds.
- Lease-Backed Debt/Certificates of Participation (COP/Lease Revenue Bonds): Issuance of lease-backed debt is a commonly used form of debt that allows a housing authority to finance projects where the debt service is secured via a lease agreement and where the payments are budgeted in the annual budget appropriation by the housing authority from its general fund.
- Multi-Family Mortgage Revenue Bonds: The Housing Authority is authorized to issue mortgage revenue bonds to finance the development, acquisition and rehabilitation of multi-family rental projects. The interest on the bonds can be exempt from Federal and State taxation. As a result, bonds provide below market financing for qualified rental projects. In addition, the bonds issued can qualify projects for allocations of Federal low-income housing tax credits, which can provide a significant portion of the funding necessary to develop affordable housing. It is expected that this type of financing will be governed by the specific policies in Exhibit A to this Debt Policy.

- HUD Section 108 Loan Guarantee Program: The U.S. Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program and other programs allow for the use of certain entitlement grants to obtain federally guaranteed funds and other subsidies to pay for costs of certain affordable housing projects.

The Housing Authority may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

To maintain a predictable debt service burden, the Housing Authority will give preference to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is variable rate debt. The Housing Authority may choose to issue securities that pay a rate of interest that varies according to a pre-determined formula or results from a periodic remarketing of securities. When making the determination to issue bonds in a variable rate mode, consideration will be given in regards to the useful life of the project or facility being financed or the term of the project requiring the funding, market conditions, credit risk and third party risk analysis, and the overall debt portfolio structure when issuing variable rate debt for any purpose. The maximum amount of variable-rate debt should be limited to no more than 20 percent of the total Housing Authority debt portfolio.

### **C. Relationship of Debt to Capital Improvement Program and Budget**

The Housing Authority intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the Housing Authority's capital budget and the capital improvement plan.

The Housing Authority shall strive to fund the upkeep and maintenance of its facilities due to normal wear and tear through the expenditure of available operating revenues. The Housing Authority will seek to avoid the use of debt to fund facilities improvements that are the result of normal wear and tear, unless a specific revenue source has been identified for this purpose, or a project is in need of substantial rehabilitation.

The Housing Authority shall integrate its debt issuances with the goals of its capital improvement program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the Housing Authority's public purposes. The Housing Authority shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

### **D. Policy Goals Related to Planning Goals and Objectives**

The Housing Authority is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget

administration. The Housing Authority intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the Housing Authority's annual operating budget.

It is a policy goal of the Housing Authority to protect constituents by utilizing conservative financing methods and techniques so as to obtain the highest practical credit ratings (if applicable) and the lowest practical borrowing costs.

The Housing Authority will comply with applicable State and federal law as it pertains to the maximum term of debt and the procedures for repaying debt obligations.

Except as otherwise described in Section 2.A., when refinancing debt, it shall be the policy goal of the Housing Authority to realize, whenever possible, and subject to any overriding non-financial policy considerations, minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount.

#### **E. Internal Control Procedures; Continuing Disclosure Obligations**

When issuing debt, in addition to complying with the terms of this Debt Policy, the Housing Authority shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The Housing Authority will periodically review the requirements of and will remain in compliance with the following:

- any continuing disclosure undertakings under SEC Rule 15c2-12 or otherwise in connection with a debt obligation,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- any relevant Housing Authority investment policies as they relate to the investment of bond proceeds.

Whenever reasonably practicable, proceeds of debt will be held by a third-party trustee and the Housing Authority will submit written requisitions for such proceeds. The Housing Authority will submit a requisition only after obtaining the signature of the Executive Director or other officer of the Housing Authority authorized by resolution of the Board of Commissioners or otherwise in the relevant financing documents.

**F. Waivers of Debt Policy**

There may be circumstances from time to time when strict adherence to a provision of this Debt Policy is not possible or in the best interests of the Housing Authority and the failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the Housing Authority in accordance with applicable laws.

## EXHIBIT A

**HOUSING AUTHORITY OF THE COUNTY OF MERCED  
BOND ISSUANCE AND POST-ISSUANCE COMPLIANCE POLICIES  
FOR  
MULTIFAMILY MORTGAGE REVENUE BONDS AND  
SIMILAR OTHER FORMS OF CONDUIT FINANCING**

**1. SUMMARY**

1.1 Federal, state and local legislation authorize the issuance of mortgage revenue bonds by local governments to finance the development, acquisition, construction and rehabilitation of multifamily rental projects. The interest on the bonds can be exempt from federal and state income taxation, and provide below market rate financing for qualified projects. In addition, properly-structured tax-exempt mortgage revenue bonds can qualify projects for allocations of federal low-income housing tax credits, which may provide a significant portion of the funding necessary to develop affordable housing. The Housing Authority of the County of Merced ("Housing Authority") has established a program (the "Program") to issue mortgage revenue bonds and other forms of financing for qualified multifamily rental and other projects within its jurisdiction. The Housing Authority's Program uses tax-exempt and taxable mortgage revenue bonds (including notes and other debt instruments) issued by the Housing Authority to subsidize the development of affordable rental housing within the County and to meet its other goals.

1.2 There is no direct legal liability to the County or the Housing Authority in connection with the issuance or repayment of conduit revenue bonds; there is no pledge of the County's or the Housing Authority's faith, credit or taxing power and the bonds do not constitute general obligations of the issuer because the security for repayment of bonds is limited to project revenue and other sources specified in the documentation for each financing. Bonds for affordable housing projects are often effectively structured as real estate loans, and the obligation to repay the bonds is secured by a first deed of trust on the bond-financed property. The Program is completely self-supporting; developers must secure funding to pay for costs of issuance of the bonds and all other costs of each financing.

1.3 The Housing Authority may issue bonds to finance or refinance housing facilities, located within its "area of operation", which includes all of Merced County except the area within the territorial boundaries of any city in the County in which a city housing authority has been authorized to transact business. Except as authorized by certain provisions of the California Health and Safety Code, the Housing Authority will not issue bonds to finance or refinance housing facilities in any city located in Merced County and in which a housing authority has not been authorized to transact business unless the consent of the City Council has been obtained.

1.4 Bonds issued under the Program should generally be privately placed with a financial institution, or, with limited exceptions, publicly issued with a minimum rating of "A", or its equivalent, by one or more of the nationally recognized rating agencies listed in Section 4.1. Proceeds of the bonds may be used for both costs of construction or rehabilitation and permanent financing. The effective mortgage rate is the aggregate of the applicable bond rate and the add-on fees charged under the program, such as lender, trustee, issuer's fee, etc. The bond rate, for fixed rate bonds, is determined at the time of a bond sale and the resulting mortgage rate is typically below conventional mortgage rates. The project loans generally have a 30-year amortization schedule although the bond maturity may be shorter.

1.5 The goals of the Program include: increase and preserve the supply of affordable rental housing; encourage economic integration within residential communities; maintain a quality living environment for residents of assisted projects and surrounding properties; and, in the event of provision of public funds towards the project, optimize the effectiveness of Housing Authority, or other public funding by maximizing the leveraging of private sector funds.

1.6 The bond issuance and related loan amount for individual projects is based upon project costs, interest rates, revenues available to pay debt service, and the appraised value of the project being financed. The Housing Authority will consider multiple properties as part of a single bond financing on a case by case basis. If a tax-exempt financing is involved, bond and related loan amounts will be subject to the procedures of the California Debt Limit Allocation Committee ("CDLAC"), as described in Section 2.3 below.

1.7 Projects must consist of complete rental units, including kitchens and bathrooms. Bond proceeds may be used for costs of land acquisition (up to 25% of tax-exempt bond proceeds), construction, rehabilitation, improvements, architectural and engineering services, construction interest, loan fees and other capital costs of the project incurred after the date sixty days before the bond inducement date specified in Section 7.3. Tax-exempt bond proceeds cannot be used to acquire property from a party related to the buyer. No more than 2% of tax-exempt bond proceeds can be used to finance costs of issuance, such as the services of the financing team members, rating and printing of bonds, cost related to bond allocation, etc. Pursuant to federal tax-exempt bond requirements, if bonds are used for acquisition and rehabilitation, an amount equal to at least 15 percent of the portion of the acquisition cost of the building and related equipment financed with the proceeds of bonds must be used for rehabilitation of the project. The loans are assumable upon transfer of the project with the approval of the credit enhancement provider or bond purchaser, and Executive Director of the Housing Authority or designee.

1.8 The Housing Authority receives compensation for its services in preparing bond issuances by charging an up-front administrative fee payable at the bond closing. In addition, the Housing Authority also receives ongoing, annual fees for compliance monitoring of regulatory restrictions and administrative oversight of outstanding bond issues.

A. The administrative fee due on the bond closing date, is an amount equal to 25 basis points (0.25%) of the initial principal amount of bonds issued (or in the case of draw-down bonds [a bond structure with multiple draws over time] the initial maximum authorized principal amount of bonds), not to exceed for tax-exempt bonds the amount otherwise allowed by the Internal Revenue Service ("IRS").

B. The annual ongoing administrative fee will be an amount equal to (a) prior to conversion to permanent financing, 0.125% of the maximum authorized principal amount of the bonds as of the closing date for the bonds, and (b) after conversion to permanent financing, if applicable, 0.125% of the outstanding principal amount of the bonds immediately after conversion to permanent financing; however, the annual ongoing fee in any event will not be less than \$10,000. The annual fee will be charged each year during the compliance period under the Bond Regulatory Agreement for the project (see Section 3.1), to recover administrative and monitoring costs of the Housing Authority, which will be charged to all projects for such compliance period, including projects where bonds are fully repaid prior to the end of the compliance period. The ongoing annual fee will be due and payable without the requirement for any invoice to be delivered to the project owner, on the first day of the month in which the anniversary of the bond closing occurs based on the facts in existence as of such first day of such month.

C. The annual ongoing administrative fee will remain fixed based on using the principal amount of bonds outstanding at permanent financing conversion regardless of any later reductions of the outstanding principal of the bonds.

D. Additional monitoring fees may be charged for monitoring affordable housing units governed by regulatory agreements in addition to the Bond Regulatory Agreement, or for projects with more than 50 units.

E. At the time of the application, the project proponent must pay a \$3,000 non-refundable application fee to the Housing Authority.

1.9 Due to IRS limitations applicable to fees charged by issuers of tax-exempt bonds where the bond purchaser and the tax credit investor are the same or related entities, the Housing Authority will not issue bonds for projects where the tax credit investor is also the same or a related entity to the bond purchaser. Exceptions may be granted on a case-by-case basis, in the discretion of the Housing Authority's Executive Director or designee.

1.10 To the extent that contractors will be providing services on behalf of a project proponent or a project owner related to the requirements of these Policies, the project proponent or project owner, as applicable, shall provide the Housing Authority with a written statement describing their relationship with the contractor and any rights the contractor has to income and obligations generated from any proposed bond issuance activity.

## 2. TYPES OF BONDS

2.1 The Housing Authority may issue either tax-exempt or taxable bonds (which include short term notes or other debt instruments including leases and loans), or both. Taxable bonds would generally be issued only in combination with tax-exempt bonds. Taxable bonds do not require an allocation of tax-exempt bond authority from CDLAC but still require compliance with State law requirements governing the Housing Authority's ability to issue bonds.

The Housing Authority may from time to time find that specific forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

To maintain a predictable debt service burden, the Housing Authority will give preference to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is variable rate debt. The Housing Authority may choose to issue securities that pay a rate of interest that varies according to a pre-determined formula or results from a periodic remarketing of securities. When making the determination to issue bonds in a variable rate mode, consideration will be given in regards to the useful life of the project or facility being financed or the term of the project requiring the funding, market conditions, credit risk and third-party risk analysis, and the overall debt portfolio structure when issuing variable rate debt for any purpose. The maximum amount of variable-rate debt should be limited to no more than 20 percent of the total debt portfolio.

2.2 The interest paid on taxable bonds is not exempt from federal taxation. These bonds are not subject to federal volume "cap" limitations and therefore do not require allocation authority from CDLAC. Taxable bond issues must meet all applicable requirements of this Policy (including rating requirements), State law requirements and any additional regulations that may be promulgated, from time to time, by the Housing Authority.

2.3 Bond interest on which is tax-exempt under federal tax law (other than refunding bonds and 501(c)(3) bonds described below), require an allocation of bond authority from CDLAC. To obtain the allocation, the Housing Authority must submit an application to CDLAC on behalf of the project proponent. Submittal of the application is at the discretion of the Housing Authority, not the project proponent. The project proponent must provide all deposits and pay all fees required by CDLAC when due.

2.4 The Housing Authority may issue bonds described in section 145(d) of the federal tax code on behalf of qualified nonprofit organizations. The interest on these 501(c)(3) bonds is tax-exempt and these bonds do not require an allocation from CDLAC, but cannot be used with the Low Income Housing Tax Credit Program.



2.5 The Housing Authority will consider the issuance of bonds to refund outstanding bonds subject to the following conditions:

A. The project proponent agrees to cover all costs of the issuer, including costs for the issuer's municipal advisor, bond counsel, and trustee (if applicable).

B. The affordability restrictions of the existing bond regulatory agreement are subject to extension. The Housing Authority reserves the right to impose additional requirements on a case by case basis. All specifics of refunding proposals must be approved by the Housing Authority.

C. The provisions of Section 34312.3 of the California Health and Safety Code shall apply to projects financed under the Program.

D. Except in limited circumstances, the provisions of Sections 65863.10 and 65863.11 of the California Government Code shall apply to projects financed under the Program, and project proponents are advised to review the requirements of such Sections.

E. Default refunding applications require a default refunding analysis (to determine the eligibility for a default refunding). The Housing Authority shall choose the firm to conduct the analysis. The project applicant will deposit the cost for the study with the Housing Authority before the study begins.

F. Periodic reviews of outstanding long-term debt will be undertaken to identify refunding opportunities. Refunding will be considered (within federal tax law constraints, if applicable) if and when there is a net economic benefit of the refunding. Refundings which are non-economic may be undertaken to achieve Housing Authority objectives relating to changes in covenants, call provisions, operational flexibility, tax status of the issuer, or the debt service profile.

In general, refunding transactions that produce a net present value savings of at least three percent (3%) of the refunded debt will be considered economically viable. Refundings which produce a net present value savings of less than three percent (3%) or negative savings will be considered on a case-by-case basis, and are subject to Board of Commissioners approval.

2.6 Bonds for projects are intended to be non-recourse conduit financing in which none of the Housing Authority or the County will be responsible for the repayment of the debt. The Housing Authority's own capital improvement plans and budgets should not be impacted by the bond financing of projects.

### 3. AFFORDABILITY REQUIREMENTS

3.1 Term of Rental and Affordability Restrictions – The project must remain as rental housing and continuously meet the affordability requirements as provided in Sections 3.2, 3.3 and

3.4 for the longer of (a) the Qualified Project Period (as defined in Internal Revenue Code of 1986), (b) as long as the bonds remain outstanding, (c) such period as may be required in the opinion of Bond Counsel to satisfy applicable federal or State law, or (d) such period as may be required by CDLAC (typically 55 years). The rent of "in-place" tenants at the conclusion of the required affordability period will continue to be governed by the applicable affordability restriction, so long as those tenants continue to live in the development. The Housing Authority reserves the right to impose additional affordability restrictions.

A Bond Regulatory Agreement containing the rental and affordability restrictions will be recorded against the project property and must be complied with by subsequent owners. The Bond Regulatory Agreement may be terminated upon expiration of restrictions or in the event of casualty loss or foreclosure, and the subsequent retirement of bonds as a result of foreclosure.

The Bond Regulatory Agreement will be drafted by the Housing Authority's bond counsel for the financing and must be in a form acceptable to and approved by the Housing Authority. The Bond Regulatory Agreement will set forth federal, state and Housing Authority requirements applicable to the operation of the project to be financed, and pursuant to Section 5220(c)(1) of the CDLAC Regulations must incorporate by reference and as an attachment the CDLAC resolution allocating private activity bond authority to the Housing Authority for the project.

State law requires advance notice and other requirements upon termination of affordability requirements, some of which also place restrictions on the sale of previously affordable housing projects, pursuant to the provisions described in 2.5(D) above.

3.2 Income Restrictions – To be eligible for tax-exempt bond financing, federal law requires that the project meet one of the following conditions:

- A. A minimum of 20% of the units in the project must be set aside for occupancy by households whose incomes do not exceed 50% of area median income, as adjusted for family size; or
- B. A minimum of 40% of the units in the project must be set aside for occupancy by households whose incomes do not exceed 60% of area median income, as adjusted by family size.

In any event, State law requires that a minimum of 10% of the units in the project be set aside for occupancy by households whose incomes do not exceed 50% of area median income, as adjusted for family size, at specified rent levels.

Project owners must certify their tenant's eligibility semi-annually or as otherwise required by the Housing Authority in the applicable Bond Regulatory Agreement. If a tenant is no longer eligible, the next available unit in the project (if federal tax credits apply to the project, in the building in which the unit was located) must be rented to a new eligible tenant and the current

tenant's rent can be raised to a market level. A unit occupied only by full time students does not count towards the very low and low-income unit set-aside requirements.

Affordability definitions are based on the area median income for the County of Merced as established by the US Department of Housing and Urban Development. The median income is subject to change annually. Household size is determined under Section 34312.3(c)(1)(B) and (c)(2)(B) of the California Health and Safety Code consistent with Section 42(g)(2)(C) of the Internal Revenue Code. Section 42(g)(2)(C) requires that, in calculating rents, occupancy of units is assumed to be one person per studio unit, and for each other unit with one or more separate bedrooms, 1.5 individuals for each separate bedroom.

3.3 Rent Restrictions – The maximum rent for the affordable set-aside units shall not exceed 30% of one-twelfth of 50% of area median income, or 30% of one-twelfth of 60% of area median income (as the case may be, depending on the selected set-aside). The maximum rent amounts are further reduced by a utility allowance for tenant-paid utilities in the amounts determined by the Housing Authority's Executive Director or designee. In the event tax-exempt bonds are used with Low Income Housing Tax Credits, or any other public funds, the most restrictive rents of the applicable programs shall apply. The affordability of restricted units in relation to the project's market rents will be considered as part of the Housing Authority's approval of the financing. The maximum rent amounts will also apply if the set-aside units are occupied by Section 8 tenants (tenant-based vouchers).

In calculating restricted rents, household size/occupancy shall be as described in the last paragraph of Section 3.2 above.

3.4 Unit Distribution – The set-aside units must proportionately reflect the mix of all units in the project, be distributed throughout the project and have the same floor area, amenities, and access to project facilities as market-rate units. The objective of the program is to provide a set-aside of units with lower rents, not to create special "low-income sections" within larger developments.

3.5 Additional Affordability Restrictions under Restructuring of Existing Bond Issues– Additional public benefit in the form of deeper income targeting; additional rent restrictions; extension of the term of restrictions; additional number of restricted units; or any combination thereof, may be negotiated in connection with refundings or debt restructurings of existing bond issues. The level of additional restrictions will be determined in the context of the overall financial feasibility of each financing.

#### 4. CREDIT CONSIDERATIONS

4.1 Required Rating on the Bonds – Any bonds issued under the Program that are sold to the public should generally be rated "A", or its equivalent, or better from one or more of the following nationally recognized rating agencies: Moody's Investors Service, S&P Global Ratings, or Fitch Ratings. The same rating requirement applies in the case of a substitution of existing

credit facility for bonds that are outstanding. On a case by case basis, the Housing Authority may determine, in its sole discretion and at a public hearing, that special circumstances are applicable to financing for a project, or refinancing of an existing bond issue, and it is suitable that the rating, credit enhancement or private placement requirements in Section 4 need not apply.

4.2 Credit Enhancement– A preferred way of obtaining the required rating on the bonds in accordance with Section 4.1 is through the provision of additional, outside credit support for the bond issue provided by rated, financially strong private institutions, such as government sponsored entities (including the Federal National Mortgage Association [Fannie Mae] or the Federal Home Loan Mortgage Corporation [Freddie Mac]), other government insured mortgage programs, or other qualified credit enhancement providers as long as the minimum bond rating is obtained. The rating on such bonds is determined based on the credit worthiness of the participating credit enhancement provider. The project proponent is required to identify and obtain any such credit enhancement. As the primary source of security for the repayment of bonds, the credit enhancement provider reviews and approves the borrower (credit, financial capability, experience, etc.) and the project and its feasibility, including the size of the loan and the terms of repayment, using their own underwriting criteria.

4.3 Rated Bonds Without Credit Enhancement– Fixed rate bonds can be issued without credit enhancement if the proposed financing structure results in the required minimum rating on the bonds by a rating agency as provided in Section 4.1. However, bonds issued without credit enhancement will only be sold to qualified institutional buyers (“QIBs”) as defined under Rule 144A of the Securities Act of 1933 and in minimum \$100,000 denominations, unless waived by the Executive Director in its sole discretion.

4.4 Privately Placed Bonds – The rating requirement specified in Section 4.1 is waived under the following conditions:

A. The bonds are privately placed with QIBs, or institutional “accredited investors,” as defined in Sections 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, or any entity in which all of the equity owners meet the requirements of at least one such subsection.

B. The bonds must be sold in minimum \$100,000 denominations.

C. All initial and subsequent purchasers (including purchasers of participation interests in the bonds) must sign a sophisticated investor letter (Investor Letter) in a form approved by the Housing Authority. While the bonds remain unrated, their transferability will be restricted to QIBs or institutional accredited investors who sign an Investor Letter.

D. Unless otherwise approved by the Housing Authority Board, the bonds may not be held at any time by more than 15 investors.

E. Upon terms acceptable to the Housing Authority, bonds may be placed in a trust or custodial arrangement with participations sold to investors.

F. The Housing Authority as issuer reserves the right to require that a trustee or fiscal agent participate in privately placed bond transactions.

The purpose of these conditions is to assure that the bonds are placed with investors who are experienced in investing in unrated municipal securities and can conduct their own analysis or real estate credit underwriting. Bond funds and affordable lending financial institutions are the types of entities this condition anticipates.

4.5 Bonds with Hedges/SWAPs. The project proponent shall disclose to the Housing Authority at the time of application of its intention to purchase an interest rate cap, hedge or swap, and such instrument shall be obtained in an arm's length transaction. Under no circumstances shall the Housing Authority be a party to such swaps or hedges.

4.6 Indemnification. The project owner shall agree to defend and indemnify the Housing Authority against liability related to the bond financing and the project and agree to reimburse the Housing Authority for all expenses incurred by the Housing Authority in issuing the bonds and monitoring the project. The Housing Authority reserves the right to require a parent company or personal guaranty of such indemnification and expense reimbursement obligations.

## 5. OTHER ISSUERS

5.1 The Housing Authority, in very limited situations, will allow issuers other than the Housing Authority to issue bonds for multifamily housing projects located within the unincorporated area of the County of Merced, or in any City in the County that does not have its own housing authority and has requested that the Housing Authority operate within the respective City. Any project proponent considering the use of any issuer other than the Housing Authority should contact Housing Authority staff prior to proceeding with the project. The required County approvals of bond issuances by issuers other than the Housing Authority will be recommended only if the financing proposal is part of a pooled issuance involving projects located in multiple jurisdictions and the project proponent can demonstrate that a pooled issuance is required for the projects to be financial viable. All Housing Authority affordability requirements, procedures and requirements will apply to projects using "outside issuers".

## 6. THE FINANCING TEAM

6.1 The Bond Counsel and Municipal Advisor specifically represent the interests and concerns of the Housing Authority in ensuring the integrity of the bond transaction. The project sponsor may, at its own expense, add additional members to the finance team to represent its interests.

6.2 The Municipal Advisor selected by the Housing Authority will be responsible for preparation of a report regarding the proposed financing, which report may include, among other matters, an analysis as to whether it is economically feasible to proceed with the financing, an evaluation of the financial strength of the project; identification of sources of security for bonds in addition to a mortgage on the project; a description of the borrower's financial situation and experience in operating and managing multifamily rental or other housing projects; and information regarding the marketability of the bonds and the rights and resources of parties to the transaction in the event of default. The municipal advisor will provide financial advice on relevant issues to best protect the interests of the Housing Authority.

6.3 Bond Counsel selected by the Housing Authority will prepare the necessary legal documentation for the bonds, including provisions regarding compliance with any applicable continuing disclosure requirements, provide an opinion regarding the validity of the bonds and their tax exempt status (if applicable), and provide legal advice on all relevant issues to best protect the interests of the Housing Authority, including but not limited to the project monitoring requirements for federal and State tax law and CDLAC purposes.

6.4 Any Bond Underwriter/Remarketing Agent/Private Placement Purchaser for the bonds will be selected by the project proponent, subject to the approval of the Housing Authority.

6.5 Any bond trustee or fiscal agent (a financial institution designated by the Housing Authority as the custodian of funds and official representative of bondholders), if required by the Housing Authority in the bond structure for the financing, will be approved by the Executive Director or designee based upon past experience, or in the absence thereof, a request for proposals process.

## 7. THE FINANCING PROCESS

7.1 Application – A project proponent interested in new-money financing must submit an application for bond financing, or in the case of an existing financing a request for bond refunding or restructuring, to the Housing Authority. Part of the required information is a disclosure statement, on each of the parties involved in the developer/ownership entity. Housing Authority staff will review the application for feasibility.

7.2 Deposit–At the time of the application, the project proponent must post a \$10,000 application deposit to cover the preliminary costs of the Housing Authority related to the proposed bond issuance, reissuance or restructuring. If the financing proceeds to closing, the deposit may be subject to return after the bond closing. If the bond issue does not proceed to closing, then the \$10,000 application deposit will become nonrefundable, and will be retained by the Housing Authority for payment toward the preliminary costs incurred by the Housing Authority and its consultants. The \$10,000 application deposit may be waived or reduced by the Executive Director or designee.

7.3 Inducement/Reimbursement Resolution– In conjunction with bond counsel, a bond inducement/reimbursement resolution (hereafter an “inducement resolution”) will be drafted and adopted by the Housing Authority. All new money projects must be the subject of an inducement resolution. An inducement resolution is a conditional expression of the Housing Authority’s “official intent” to issue bonds for a given project and is required for tax-exempt financing under Treasury Regulation Section 1.150-2(e). Adoption of the inducement resolution establishes, through the public record, the date from which project costs incurred may be determined to be eligible for financing under the Program with proceeds of tax-exempt bonds. Therefore, applicants are encouraged to induce their projects as soon as practicable to clearly identify the project, its location, maximum number of units, the maximum amount of financing, and the proposed ownership entity.

A. Application to CDLAC – The inducement resolution also authorizes Housing Authority staff to submit an application to CDLAC, on behalf of the project proponent, for a private activity bond allocation if the bonds are to be tax-exempt.

B. No Binding Financial Commitment – Adoption of the inducement resolution does not represent any commitment by the Housing Authority, or the project proponent to proceed with the financing. The adoption by the Housing Authority of an inducement resolution, by itself, does not authorize any subordinate financing by the Housing Authority or any other entity of the County. The Housing Authority retains absolute discretion over the issuance of bonds through adoption of a required resolution authorizing such issuance and approving related bond documents.

C. No Land Use or Building Code Approval – Adoption of the inducement resolution shall not be construed to signify that the project complies with the planning, zoning, subdivision and building laws and ordinances of the County or other relevant agency or suggest that the Housing Authority, the County, or any officer or agent of the Housing Authority or the County will grant any such approval, consent or permit that may be required in connection with the development of a given project.

7.4 TEFRA Hearing and Approval – In order for interest on the bonds to be tax-exempt and in accordance with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), and Section 147(f) of the Internal Revenue Code of 1986, the issuance of bonds must be approved by an elected representative or representatives of a governmental unit with jurisdiction over the area in which the project is located, after a public hearing for which a public notice (describing the proposed location of the project, the number of units, and proposed bond issuance amount) is given. The purpose of the public hearing is to provide an opportunity for interested persons to provide their views on the proposed bond issuance and on the nature and location of the project.

7.5 Bond Allocation – Prior to the issuance of tax exempt bonds (other than 501(c)(3) bonds), the Housing Authority must apply for, and receive an allocation of bond issuing authority from CDLAC. To receive such an allocation, the Housing Authority and the project proponent must

document their readiness to proceed with the bond financing and must comply with all applicable CDLAC regulations.

7.6 Performance Deposit – At the time of the application to CDLAC, the project proponent must deposit with the Housing Authority an amount equal to one half of one percent of the requested allocation amount (or such other amount as may be required by CDLAC) as a performance deposit. The deposit will be returned to the project proponent only in accordance with CDLAC procedures; and the deposit is subject to reversion to CDLAC if the financing does not close under applicable CDLAC regulations.

7.7 Local Review– All projects must be in compliance with the County's (if the project is located in the unincorporated area of the County) or applicable City (if the project is located in an incorporated City) zoning requirements and adopted community plans. Prior to requesting the Housing Authority approval of a new money bond issuance, the project must undergo all planning procedures and land use approvals, including discretionary review, and environmental analysis, as required.

7.8 Housing Authority – Final Approval. Housing Authority staff recommendations to proceed with a proposed bond issuance, reissuance, or bond restructuring will be presented for approval by the Housing Authority. If approved, staff will work with the approved financing team to structure the financing and to prepare the necessary bond documents. The resulting bond documents, authorizing resolution, staff report, and other relevant docket materials will be submitted for final approval by the Housing Authority, a minimum of two weeks prior to the Housing Authority meeting date, at which the adoption by the Housing Authority of a resolution authorizing the issuance of the bonds is to be considered.

## **8. TENANT RELOCATION**

8.1 As required by CDLAC regulations (Section 5211 "Tenant Relocation") if low-income tenants will receive a rent increase exceeding five percent (5%) of their current rent, then a relocation plan is required to address economic displacement. Where applicable, the project proponent shall provide evidence that their location plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act (42 U.S.C.61).

## **9. PROHIBITION OF CERTAIN "SUBSTANTIAL USERS"**

9.1 The Housing Authority, in its sole and absolute discretion, reserves the right to reject and not issue bonds for proposed projects where, in the proposed financial structure, the proposed bond purchaser is the same entity or a related entity as the project owner (including, but not limited to, tax credit investor limited partners) or involves any other arrangement which may limit the Housing Authority's ability to charge administrative fees in the amounts detailed in Section 1.7 above, including but not limited to the circumstances described in Section 1.8 above.



## 10. POST ISSUANCE COMPLIANCE AND CONTINUING DISCLOSURE POLICY

10.1 Use of Bond Proceeds and Bond-Financed or Refinanced Assets. It is the Housing Authority's policy that the project owner shall be responsible for:

A. Monitoring the use of bond proceeds and the use of bond-financed or refinanced assets (e.g., facilities, furnishings or equipment) throughout the term of the bonds to ensure compliance with covenants and restrictions set forth in the documents relating to the bonds;

B. Maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of bonds, including a final allocation of bond proceeds;

C. Consulting with bond counsel and other legal counsel and advisers in the review of any contracts or arrangements involving use of bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the documents relating to the bonds;

D. Maintaining records for any contracts or arrangements involving the use of bond-financed or refinanced assets as described in 10.2 below;

E. Conferring at least annually with personnel responsible for bond-financed or refinanced assets to identify and discuss any existing or planned use of bond-financed or refinanced assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the bond documents; and

F. To the extent that the project owner discovers that any applicable tax restrictions regarding use of bond proceeds and bond-financed or refinanced assets will or may be violated, consult promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

10.2 Record Keeping Requirement. It is the Housing Authority's policy that the project owner shall be responsible for maintaining the following documents for the term of each issue of bonds (including refunding bonds, if any), plus at least three years:

A. A copy of the bond closing transcript(s) and other relevant documentation delivered to the project owner at or in connection with closing of the bond issue;

B. A copy of all material documents relating to capital expenditures financed or refinanced by bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw requests for bond proceeds and evidence as to the amount and date for each expenditure of bond

proceeds, as well as documents relating to costs paid or reimbursed with bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with bond proceeds, including a final allocation of bond proceeds;

C. A copy of all contracts and arrangements involving the use of bond-financed or refinanced assets; and

D. In respect of any investment of bond proceeds or collateral securing the repayment of the bonds, a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee or fiscal agent statements, in connection with any investment agreements, and copies of all bidding documents, if any.

For housing bond financings subject to the requirements of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"), it is the Housing Authority's policy that the project owner shall be responsible for maintaining until the end of the "qualified project period" within the meaning of Section 142(d)(2)(A) of the Code, plus at least three years, a copy of all records evidencing compliance with the requirement of Section 142(d) of the Code, including tenant income verifications, leases and tenant records.

The project owner, in the documents relating to the bonds and/or other documents finalized at or before the issuance of the bonds, shall agree to the foregoing records retention requirements and procedures.

10.3 At completion of the new construction or rehabilitation work, the project owner shall provide to the Housing Authority staff a certification from the project's architect that the project includes all design elements that formed the basis for CDLAC's award of bond allocation points (including but not limited to sustainable building methods and/or energy efficiency elements). Additionally, at or before completion of the new construction or rehabilitation of the project, and in any event prior to conversion of bonds to permanent financing, the project owner shall provide the Housing Authority with the final actual sources and uses of funds in the form of an independent cost certification and shall confirm to the Housing Authority staff that such sources and expenditures comply with all state and federal legal requirements, including the requirements set forth in the tax or arbitrage certificate with respect to tax-exempt bonds.

10.4 Annual Certification of Public Benefits and On-going Compliance – As required by CDLAC regulations, all projects that receive a CDLAC bond allocation and are within an existing regulatory period and/or compliance period, shall be monitored by the Housing Authority staff for compliance with the terms and conditions of the CDLAC allocation resolution. The Housing Authority may choose to hire an outside compliance monitoring firm to assist with such requirements. It is acknowledged that the Housing Authority is required to collect, review and submit to CDLAC the Certification of Compliance I, Certification of Compliance II, and CDLAC Completion Certificate, for each issuance of bonds, when applicable.

A. Annually, on or before February 1 of each year until the expiration of the later of the qualified project period or compliance period under the applicable CDLAC Resolution and Bond Regulatory Agreement, the project owner shall provide a written certification of compliance to the Housing Authority, to confirm that the completed project meets the terms and conditions stated in the CDLAC Resolution.

B. The Housing Authority shall review the project owner's certification of compliance and may request supporting documents that evidence compliance as necessary in the sole reasonable discretion of the Housing Authority.

C. Annually, no later than March 1 of each year until the expiration of the qualified project period or compliance period under the CDLAC Resolution and Bond Regulatory Agreement, the Housing Authority shall complete and submit to CDLAC the Certification of Compliance II for Qualified Residential Rental Projects in such format as required by CDLAC, indicating that the completed project meets the terms and conditions stated in the applicable CDLAC Resolution.

D. The project owner is also required to submit IRS Form 8703 annually to the IRS on or before each March 31 as long as the bonds are outstanding. Form 8703 provides annual information to the IRS to help them determine whether a project continues to be a qualified residential rental project under section 142(d) of the Internal Revenue Code of 1986, as amended.

E. For projects receiving allocation of bond authority from CDLAC after December 31, 2016, CDLAC requires that a review of 20% of all management files associated with federally bond-restricted units either on site or electronically be performed upon project completion and every 3 years thereafter.

F. For projects which are not satisfying the terms and conditions stated in the CDLAC Resolution, the Housing Authority will work with CDLAC staff and Housing Authority legal counsel to institute remedial action, as necessary, including an action for specific performance or other available remedy. The Housing Authority may disqualify a bond application from any project owner or member of the development partnership who is not in compliance with CDLAC's Post Issuance Compliance requirements, as determined by the Housing Authority and/or by CDLAC.

10.5 Transfer of Ownership. The Housing Authority reserves the right to approve any voluntary change in ownership of a bond-financed project (i) to another owner, (ii) that results in a transfer of 50% or more of the total equity interests in a project owner, or (iii) that results in a transfer of any general partner or managing member interest in the project owner. Such approval of transfer ownership shall be at the discretion of the Housing Authority subject to any additional requirements set forth in the applicable tax certificate or Bond Regulatory Agreement. The Housing Authority shall review management practices of the proposed transferee's current and previously owned multifamily housing rental properties. Any proposed transferee (including

individuals within an ownership) whose currently-owned multifamily housing rental properties have been found by the Housing Authority to have deficiencies that have not been resolved within the time frame prescribed by the County, Housing Authority or other local government authority, may not assume ownership of, or an ownership interest in, any bond financed project. The Housing Authority may initiate additional inspections to verify findings.

10.6 Carryforward Election. With respect to each allocation of tax-exempt private activity bond issue authority to the Housing Authority in a given calendar year for which less than all of the allocation of volume cap was used, the Housing Authority staff shall contact CDLAC requesting confirmation of the amount, if any, of carryforward election the Housing Authority shall make under section 146(f) of the Internal Revenue Code and the Housing Authority will timely file a Form 8328 with the IRS.

10.7 Arbitrage Rebate Compliance. The project owner shall comply with all applicable federal tax laws set forth in the tax or arbitrage certificate and bond documents, including arbitrage rebate compliance. Upon request, the project owner shall provide the Housing Authority with documentation that verifies compliance with federal tax laws set forth in the tax or arbitrage certificate and bond documents, including rebate compliance reports.

## 11. CONCLUSION

This Policy is intended to guide and regulate the Housing Authority's issuance and administration of conduit revenue debt. This policy should be reviewed and updated periodically to reflect changes in the market, changes in the law, the identification of other best practices, and to incorporate the Housing Authority's own experience or changing circumstances.

While adherence to this Policy is generally required, it is recognized that changes in the capital markets, the Housing Authority's needs and other unforeseen circumstances may from time to time produce situations that are not covered by the Policy or will require modifications or exceptions to best achieve the Housing Authority's overall goals. Any deviations from this Policy that are recommended by staff should be highlighted in the staff report transmitting the resolution for approval of the financing.

HOUSING AUTHORITY  
of the  
COUNTY OF MERCED

ACCOUNTING POLICIES AND PROCEDURES  
GUIDEBOOK



Building opportunities for tomorrow

HACM Rev. 6-2016

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**I. ACCOUNTS PAYABLE/CONTRACTS PAYABLE****A: PAYMENT PROCESS****Purpose**

To make payments to vendors, employees, financial institutions, creditors, residents and other parties in a prompt and efficient manner.

**Policy**

The HOUSING AUTHORITY OF THE COUNTY OF MERCED (HACM) will process payments timely and within terms (net 30 days), accurately, and in a manner consistent with Housing and Urban Development (HUD) guidelines and Generally Accepted Accounting Principles (GAAP) standards.

**Condition**

All invoices must be received and reviewed for accuracy by the Property Manager, department head and classified appropriately in the payable process. The Accounting Tech must receive all invoices and requisitions no later than 1 day prior to the check run day. Typically, accounts payable and contracts payable checks are prepared every week. All checks that are processed in the accounts payable module of the Accounting System will be paid.

**Associated Materials**

Invoices

Purchase Orders

Shipping Documents

Check Run Folder

Payable Report

Quotes

NOTE: All of the above documents and any substantiating related material must have signature approval of the department head or property manager responsible for the acquisition.

## **Procedures**

### Responsibility and Actions

#### **Accounting Tech**

1. Receive invoices from Receptionist.
2. Distribute invoices to responsible parties for review & approval.
3. Receive back invoices and supporting documentation from responsible parties.
4. Review invoices with supporting documentation. Make sure that paperwork is complete and accurate. Verify General Ledger Distribution Code. If unsure about coding confer with Finance Officer (FO).
5. Approved invoices entered in Yardi.
6. Create a payables "Batch" in the Yardi software system.
7. When all invoices are entered and balanced, the Batch is reviewed and approved by FO then posted to be paid.
8. Print Checks for all invoices that are posted into the system. Check printing is set up to automatically sign checks when printed. Blank check stock is kept in secure storage area.
9. A check stub is attached to the invoice and supporting documentation. ED reviews and will sign off on approved invoices.
10. Print "Payable Check Detail" Checks with the invoice and supporting documentation and posted Batch Report are forwarded to ED.
11. Approved invoices are filed by Vendor in A/P files.
12. Check detail and Batch reports are filed by month.

#### **Property Managers**

1. Review all invoices for accuracy.
2. Mark invoices with G/L code.
3. Approve and sign off vouchers & return to Accounting Tech with supporting documents.
4. Attach invoice to purchase order.

5. Receive goods into software system.
6. Match packing list to Receiving Report.
7. Reconcile any discrepancies such as pricing and quantities.

**Receptionist**

1. Receive invoices through mail daily and date stamp. Forward to Accounting Tech.

**FO**

1. Review “Payable Batch Report” checks and supporting documentation. Initials off on batch reports.
2. Forward all back to Accounting Tech for dissemination.

**ED**

1. Review checks, invoices, and initial check copies as approval.

**For Section 8 Checks**

**Purpose**

To make rent payments to landlords and utility allowance payments to residents in a timely, cost effective and efficient manner.

**Policy**

HACM will process payments timely, accurately, and in a manner consistent with Housing and Urban Development (HUD) guidelines.

**Conditions**

Typically, checks are prepared and distributed the 1st working day of every month as well as the last working day of the week.

**Associated Material**

Post Subsidies Edit List

Post Subsidies Pre Posting Report

Post Subsidies Transactions Recap Report

Section 8 Port-In Report

Port-In Billing Report

W-9 File

Check Register Report

### **Procedures**

Responsibility and Actions

### **Accounting Tech (Tenant)**

1. Review Post Subsidies Edit Report. Review for any updates directed by the Eligibility Specialist.
2. Run Post Subsidies Pre-posting Report which shows everything that is going to be paid for HAP and FSS.
3. Post to Account Payable ledger. Print Post subsidies Transactions Recap Report. System creates a separate payables batch in system.
4. Enter Accounts payable processing. Choose "Select All", Choose "Process". When selecting HAP check. Enter property, date, process checks and date to be posted.
5. Print checks. Blank checks stock is kept in secure storage. Section 8 has its own bank account. Checks are signed by the printer.
6. Print Check Register.
7. Verify Actual checks printed against Check Register

### **Eligibility Specialist (ES)**

1. Work with Accounting Tech (Tenant) to resolve issues regarding landlord issues.

### **For Checks that are made outside of Post Rent Hap Manager (PRHM)**

Corrections will be handled through adjustments made to each landlord account and be recognized in the next check run. A manual HAP check request will be

signed and approved by ES and Manager. This should only be done if adjustments can not be made thru PRHM.

## **B: ACH/WIRE PAYMENT PROCESS**

### **Purpose**

To make HAP payments using electronic deductions from the Authority's bank account.

### **Policy**

HACM will process payments timely, accurately and in a manner consistent with Housing and Urban Development (HUD) guidelines.

### **Conditions**

All ACH/Wire payment requests must contain properly approved documentation.

### **Associated Material**

Direct Deposit sign up form

Wire Transfer Instructions

### **Procedures**

Responsibility and Actions

### **For Section 8 checks**

#### **Accounting Tech (Tenant)**

1. Receive approved documentation, with e-mailed wire instructions.
2. Verify that all supporting documentation has been received and is accurate based on the Authority's Procurement Policy and Part I Section A of this manual.
3. Enter data for ACH or Wire Transfer into the electronic banking system.
4. Print report for review.

5. Submit ACH or Wire Transfer to bank.
6. Print submittal and file with all supporting documentation.

## **C: UTILITY BILLS**

### **Purpose**

To pay utility bills timely and efficiently.

### **Policy**

HACM will process utility checks in a timely and accurate manner.

### **Conditions**

All utility bills must be received and reviewed for accuracy by Accounting Tech and classified appropriately in the payable process. Utility bills will be paid the last working day of each week.

### **Associated Material**

Utility Spreadsheet

Utility Bills

### **Procedures**

Responsibility and Actions

### **Receptionist**

1. Receive utility bills through the mail daily and date stamp.

### **Accounting Tech**

1. Receive utility bills from Receptionist.
2. Code utility bills with Vendor code and G/L distribution Code. Separate utility bills down to project level.
3. Enter and pay utility bills as outlined in Part I Section A of the Accounts Payable procedures.

4. Enter utility information on spreadsheet for fiscal year. Information includes, “from” and “to” dates, “previous” and “present” usage, dollar amount and unit of consumption (i.e. gallon, kWh, therms).

### **FO**

1. Review utility bills and spreadsheets on a quarterly basis.

### **D: DISSEMINATION OF A/P CHECKS**

#### **Purpose**

To disburse A/P, contracts payable, HAP and UAP checks in a systematic and efficient manner.

#### **Policy**

All checks will be reviewed for accuracy and mailed in a timely manner.

#### **Condition**

N/A

#### **Associated Material**

N/A

#### **Procedures**

Responsibility and Actions

#### **Accounting Tech (A/P and contracts checks)**

1. Attaches check copy to invoice, purchase order and other supporting documentation. Common vendor checks are sorted and mailed together.
2. Assembled check and support is filed in file by Vendor.
3. Invoices are filed in secured location.
4. Checks with remittance are inserted in envelopes and mailed the day they are printed.

#### **Accounting Tech (Section 8)**

1. Separate out URP and HAP checks.



2. Checks with remittance are inserted in envelopes and mailed on the 1<sup>st</sup> working day of each month as well as the last working day of each week.

## **E: SCHEDULE OF OUTSTANDING PAYABLES**

### **Purpose**

To provide the FO with a detailed list of open accounts payable at the end of the month.

### **Policy**

The Accounting Tech will provide a detailed Open Accounts Payable report to the FO on a monthly basis no later than the 10<sup>th</sup> of the subsequent month which includes all payables received as of that date for the prior month.

### **Condition**

The Open Accounts Payable Report will be generated and presented to the FO by the Accounting Tech for review on a monthly basis.

### **Associated Materials**

Accounts Payable Report

### **Procedures**

Responsibility and Actions

### **Accounting Tech**

1. Generate Open Accounts Payable Report from Yardi software by the 10<sup>th</sup> of each month.
2. Reconcile, by the 12<sup>th</sup> of each month, the monthly Open Accounts Payable Report with the balance in the general ledger. If any differences exist, investigate and resolve promptly.
3. Submit to FO for review.
4. Review all vendor statements. Tie vendor statements to paid and open invoices. Check with Property Managers regarding un-reconciled invoices that have not been entered into Yardi.

**Property Manager**

1. Work with Accounting Tech to explain un-reconciled invoices received but not entered into Yardi.

**FO**

1. Review Open Accounts Payable Report monthly.
2. Sign off outstanding payable for payment in the following period.

**F: BANK RECONCILIATION PROCESS**

**Purpose**

To reconcile the bank accounts

**Policy**

HACM will reconcile monthly all bank accounts consistent with Housing and Urban Development (HUD) guidelines.

**Conditions**

All bank statements must be recorded when received on a master bank list by the 10<sup>th</sup> of each month and reconciled by the end of each month.

**Associated Material**

Bank Statements

Cash receipts

Cash disbursement reports

**Procedures**

Responsibility and Actions

**Finance Officer**

1. Receive bank statements monthly
2. Reconcile each bank statement using the Yardi “Bank Reconcile” function.
3. Create/Input any journal entries required to correct errors identified.
4. Review and Post Bank Rec in Yardi System.
5. Review and Post journal entry.

## II. MATERIALS MANAGEMENT

### A: PURCHASES

#### **Purpose**

To obtain materials and supplies in a timely, cost effective and efficient manner.

#### **Policy**

HACM will process requisitions in a timely and accurate manner.

#### **Condition**

Purchases for all materials and supplies must be made in accordance with established Authority's Procurement Policy.

#### **Associated Materials**

Purchase Order

#### **Procedures**

Responsibility and Actions

#### **Property Manager**

1. Reviews requisition and supporting documentation from Maintenance staff. Property Manager may fill out own requisition.
2. Create Purchase Order in Yardi.
3. When invoice is received, inventory is received into system.

### B: INVENTORY

#### **Purpose**

HACM will maintain and distribute adequate materials and supplies.

Inventory is not on Financials, expensed as purchased.

**Policy**

HACM will keep accurate track of all materials and supplies at the individual sites. An annual inventory count will be performed by maintenance staff, under the supervision of the Maintenance Supervisor.

**Associated Materials**

Inventory Reports

Obsolete Inventory Report

**Procedures**

Responsibility and Actions

**Maintenance Supervisor & Staff**

1. Annual- run a report listing the inventory on hand (called Inventory Report).
2. Close out all completed work orders.
3. Enter physical count into inventory module.
4. Perform an annual physical count of inventory items in warehouses and trucks.
5. List obsolete inventory on hand at year-end and provide copy to Property Manager.
6. Compare physical count to Inventory Report run by Property Manager. Discrepancies between the two counts should be investigated, explained and a correct count should be determined prior to proceeding. If an item was on the Inventory Report but could not be located during the physical count, compare it with the board approved disposition of equipment and/or question the Department Head or Property Manager responsible for that item.

**Assistant FO**

1. Review inventory count with Maintenance Supervisor. Analyze and assist in reconciling variances.

**C: FIXED ASSETS - EQUIPMENT****Purpose**

To account for fixed asset costs by program.

**Policy**

HACM will capitalize all assets whose costs exceed \$10,000 and have a useful life greater than 1 year. HACM will account for all expenditures, disposals, and inter-transfers of fixed assets in accordance with GAAP guidelines.

**Condition**

All purchases of equipment will be tagged and placed into the inventory of that department. Any transfers will be removed from the fixed asset listing of that department and added to the acquiring department. Disposal of equipment will be handled in a manner that complies with the Disposition Policy.

**Associated Material**

Property ledger

**Procedures**

Responsibility and Actions

**Property Manager**

1. A signature and date on shipping documents will signify that the merchandise has been inspected and is "OK" to place into HACM fixed asset inventory.
2. Forward shipping documents to Maintenance Supervisor.
3. Received asset tags from Maintenance Supervisor and affixes to capital assets.

**Maintenance Supervisor**

1. Responsible for assigning tag numbers. Sends out asset tags to be affixed to capital assets. Logs serial number and model number of assets into log.

**FO**

1. Review and post all journal entries received from Assistant FO for adjustments to Capital Assets.

**Assistant FO**

1. After matching receiving documents to contracts, requisitions, purchase orders, etc., enter new assets into Yardi.
2. Will insure that all fixed assets at HACM are accounted for and are included in the correct fixed asset listing.
3. If an item is moved from one location to another, adjust the computer record with the correct location.
4. Write out applicable journal entries and forward to FO for review and approval.

**III. TENANT ACCOUNTING****A: POSTING DWELLING RENT RECEIPTS****Purpose**

To update tenant accounts in a timely and accurate manner.

**Policy**

Post payments to tenant ledgers within 2 business days after receipt.

**Condition**

All rents collected should ideally be posted and balanced by the next business day. Deposits are made daily. Exceptions may occur but should be resolved within 2 business days of the original receipt from the resident.

**Associated Material**

Receipts Report

Deposit Report

General Ledger Posting Report

Deposit Slips

Cash Receipts/Bank Deposits Report

Rent Roll

Security Deposit Report

TAR Report

## **Procedures**

Responsibility and Actions

### **Accounting Clerk (Tenant)**

1. Receive daily tenant Payments.
2. Sorted by Property within each AMP.
3. In Yardi Accounts Receivable, create detailed batch for each Property, enter tenant deposit information. Post oldest rent balance first then current rent balance, all non-rent charges second; remainder will be credited to rent per the "ACOP". Partial payments are investigated by the Property Managers. Input payment amount and check or money order number. System automatically generates late payment.
4. Once all payments are posted into Yardi, run one adding machine tapes of tenant checks. Match to Yardi control total. Reconcile and variances.
5. View Un-posted Receipt Batch Report. Post if OK.
6. Printed posted Receipts Batch Report.
7. Print Receipts Batch Report.
8. Print Deposit Report – this is a deposit summary report.
9. Complete bank deposit ticket.
10. Posted Receipts Batch Report, a copy of the deposit ticket are filed and kept in the Accounting Tech's office.
11. Deposits are made inside of bank to get credit on that date.

## **B: DIRECT DEBITS**

### **Purpose**

To update tenant accounts in a timely and accurate manner.

### **Policy**

All Direct Debit forms must be properly executed.

**Condition**

Rental payments electronically deducted from tenant's personal bank account and automatically deposited to Authority's bank account.

**Associated Material**

Direct Debit Authorization Form

Direct Debit Spreadsheet

Bank Statement

**Procedures**

Responsibility and Actions

**Tenant Accounting Specialist**

1. Receive completed Direct Debit Authorization Form from tenant.
2. Prepare Direct Debit Spreadsheet.

**General Ledger Accountant**

1. Set up bank transaction on the second business day of each month. Money is transferred from the tenants' accounts on the fourth business day of every month.
2. Notify Tenant Accounting Specialist when transaction has been completed.

**C: REPORTING TO FO****Purpose**

To provide the FO with timely and accurate tenant rent balances.

**Policy**

The Property Managers will provide rental data to the FO on a monthly basis.

**Condition**

1. Rent roll and balance report are provided to the FO by the end of each month.



**Associated Materials**

Late Notices  
Tenant Ledger  
Vacated Ledger

**Procedures**

Responsibility and Actions

**Property Managers**

1. On the 10th day of the month, late notices are to be printed, reviewed and mailed.

**D: ACCOUNTS RECEIVABLE**

**Purpose**

To insure that changes to a tenant's account are recorded accurately and timely.

**Policy**

HACM will process tenant account adjustments in a timely manner. No charges can be written off without Board approval.

**Conditions**

The Chief Operating Officer – Public Housing will receive all adjustments.

**Associated Materials**

Tenant Accounts Receivable Report

**Procedures**

Responsibility and Actions

**Assistant FO**

1. Reviews Balance by Project with Collection Loss Report Date with cutoff date of 9/30 and identifies tenants that have no activity since 9/30.

2. Adds up by Project Number and forwards copy to Chief Operating Officer – Public Housing. Substantial balances will be discussed with Property Managers and Executive Director. After their review, a copy goes to the Assistant to the Executive Director.

**Assistant to the Executive Director**

1. Receives Balance by Project with Collection Loss Report with notes on tenants whose balances are to be written off from Chief Operating Officer – Public Housing.
2. Write up Board Resolution to be presented at the Board Meeting.

**Board of Directors**

1. Approve resolution to write off tenant accounts receivable. Approved Resolution is forwarded to Accounting Tech (Tenant).

**Accounting Tech (Tenant)**

1. Once Board approval is given, tenant balances are written off.

**E: TENANT MOVE OUT**

**Purpose**

To insure that tenant balances are correctly stated.

**Policy**

HACM will insure that at the time of move out, refunds, including security deposits, are made in the correct amount, balances are paid in full or repayments plans are in place.

**Condition**

Property Managers will inform the Accounting Tech (Tenant) when a resident is terminating their lease.

**Associated Material**

Move-out Statement

Refund Notice

Balance Due Notice

**Procedures**

Responsibility and Actions

**Property Managers**

1. Determine the amount of security deposit due to each tenant moving out after all work has been done on the unit.
2. Verify the amount to be refunded to resident.
3. Post move out charges and prorate move out credit
4. If balance is due, mail closing invoice.
5. If refund is owed, submit Move-out Statement request to Accounting Tech (Tenant) for check.

**FO**

1. Review and approve tenant refund check and forward to Accounting Tech to be mailed.

**Accounting Tech (Tenant)**

1. Prepare tenant refund check based on approval from Property Managers consistent with HACM's Accounts Payable Procedures as outlined in Part I Section A. Forward to FO.

**Accounting Tech**

1. Mail check with notification of refund.

**F: VOUCHER TENANT / FUNDING MANAGEMENT**

**Purpose**

The purpose of the procedures is to ensure that the HOUSING AUTHORITY OF THE COUNTY OF MERCED Housing Choice Voucher Program can assist as many eligible families as possible and avoiding putting the program at risk.

**Policy**

At the close of each month, a HAP and Leasing utilization report will be prepared to monitor HAP funding. The utilization report will include units available, units leased, HAP funded, HAP expended and calculated the percentage of leasing, the average per unit cost for HAP and the percentage of utilization for HAP. Additionally, it will monitor HAP reserve levels. This information will also reconcile to the quarterly VMS submission.

This Utilization Report shall be reviewed and used by the Housing Choice Voucher Program Director to ensure the efficient fiscal operation of the program and the maintenance of proper levels of HAP payments and leasing.

It is very important to manage HAP and leasing utilization closely to maintain the challenging task of providing housing for the residents from the designated units issued from HUD vs. subsidy received from HUD. The utilization will be measured during the fiscal year. HAP or leasing utilization below 95% will prevent the housing authority from achieving the full points under SEMAP.

**Condition**

Monthly

**Associated Materials**

HAP Register

Units leased listing

HUD Funding (Bank Statements)

VMS Reports

## SAMPLE UTILIZATION REPORT

Month	(a) HAP Funded	(b) HAP Expended	(c) HAP Utilization	(d) UML	(e) Avg. PUC	(f) % Leased	(g) UMA	(h) Excess (Deficiency)	(i) NRA Available
October			#DIV/0!		#DIV/0!	#DIV/0!			\$ -
November			#DIV/0!		#DIV/0!	#DIV/0!			
December			#DIV/0!		#DIV/0!	#DIV/0!			
January			#DIV/0!		#DIV/0!	#DIV/0!			
February			#DIV/0!		#DIV/0!	#DIV/0!			
March			#DIV/0!		#DIV/0!	#DIV/0!			
April			#DIV/0!		#DIV/0!	#DIV/0!		-	
May			#DIV/0!		#DIV/0!	#DIV/0!		-	
June			#DIV/0!		#DIV/0!	#DIV/0!		-	
July			#DIV/0!		#DIV/0!	#DIV/0!		-	
August			#DIV/0!		#DIV/0!	#DIV/0!		-	
September			#DIV/0!		#DIV/0!	#DIV/0!		-	
	\$ -	\$ -		-	#DIV/0!		-	\$ -	

(a) HAP funding provided by HUD  
(b) HAP Expended equals total HAP checks  
(c) HAP utilization equals Actual HAP / HAP Funded  
(d) UML provided by Section 8 Accountant  
(e) Avg. PUC (average per unit cost) equals Actual HAP / UML  
(f) % Leased equals UML / UMA  
(g) UMA provided by Section 8 Accountant  
(h) Difference of HAP Funded vs. Actual HAP  
(i) NRA (net restricted assets). Represents excess HAP funding. \$879,310 provided by March 14, 2008 funding letter

### IV. PAYROLL

#### A: PROCESSING TIME AND ATTENDANCE

##### Purpose

To accurately record time and attendance and pay employees the correct amount.

##### Policy

HACM will insure that employee's time and attendance is accounted for bi-weekly and that the employee receives the correct amount of pay.

##### Condition

Time and attendance will be recorded bi-weekly and wages will be paid every two weeks.

**Associated Materials**

Time Sheets

Pension Report

Payroll Report

**Procedures**

Responsibility and Actions

**All Employees**

1. Will insure that time and attendance is recorded properly on manual time sheets.

**All Property Managers, Maintenance Supervisors & Department Heads**

1. Approve all time entry, including time off for vacation and sickness, for those employees under their management and insure that this information is provided to the Human Resources Tech in a timely manner. Time sheets are to be provided to the Human Resources Tech no later than 9 am the subsequent Monday following the payroll period.

**Human Resources Tech/ Accounting Tech**

1. Receive time sheets from various supervisors
2. Review for accuracy, overtime and compensated absence time.
3. Alphabetize and start manually entering data into "ADP" payroll.
4. Generally on Monday before 3pm, log into ADP and transmit payroll information.
5. Receive e-mail confirmation from ADP stating that payroll has been processed. Log into ADP and download payroll report. Review report. If issue exists with payroll, contact ADP via phone with correction.

Note: California law requires that employees that are involuntarily terminated be given their last paycheck immediately. In the event where the Authority needs to give an employee a check outside the normal process, the Human Resources Tech can calculate the net pay using ADP

and a check can be generated manually from ADP or ADP can process a separate check run to be picked up by the Human Resources Tech. The manual check is properly documented on the ADP Payroll Register Reports.

6. Payroll check Register Reports that accompany the checks are reviewed and filed in Payroll Binder. Binder is kept in Human Resource Tech's office (secured.)
7. On the Thursday of payroll week, print out each of the Pension Reports for CalPers, ING Direct and Mass Mutual. Go online for each account and confirm contributions (or update information) and initiate automatic withdraw. Print online confirmation. Confirmation is attached to Pension Reports and kept in Human Resource Tech's office (secured.)
8. Notify FO of total Payroll Amount.

## **B: DEDUCTIONS**

### **Purpose**

To appropriately and accurately take the correct amount of deductions from an employee's wages.

### **Policy**

HACM will deduct the correct amount of payroll deductions from employees.

### **Condition**

Deductions will be submitted to the appropriate organization prior to the due dates.

### **Associated Materials**

Medical

Dental

Vision

Life Insurance (Additional Life if elected)

Child Support

Garnishments

IRS Liens

Deferred Compensation

**Procedures**

Responsibility and Actions

**Human Resources Tech**

1. Receive employee's choices as to what benefits they want deducted.
2. Review mandated court orders and inform employees of deduction prior to first payroll effected.
3. Enter applicable payroll deductions and updates to ADP payroll system.

**C: POSTING PAYROLL COST TO GENERAL LEDGER**

**Purpose**

To accurately post payroll and related expenses on a bi-weekly basis.

**Policy**

HACM will post payroll expenditures accurately and timely into the accounting system.

**Condition**

Payroll summary data will be compiled and posted to the general ledger on a bi-weekly basis.

**Associated Materials**

Payroll Summary Data provided by the ADP

Spreadsheet

**Procedures**

Responsibility and Actions



**Accounting Tech**

1. Create Spreadsheet from information obtained from the ADP Payroll Registers. Spreadsheet calculated allocation to various funds and journal entries.

**FO**

1. Post journal entries to the Yardi General Ledger.

**D: POST PAYROLL REPORTING****Purpose**

To maintain proper documentation of payroll checks distributed.

**Policy**

HACM will maintain proper documentation that supports all payroll checks distributed.

**Condition**

Supporting documentation for payroll checks (electronic reports) will be reviewed and filed immediately upon payroll processing.

**Associated Materials**

Payroll register generated by ADP

**Procedures**

Responsibility and Actions

**Human Resources Tech**

1. Compile through ADP, payroll information (including pay stubs and paychecks) on Thursday, bi-weekly.
2. Distribute pay checks and stubs (for direct deposit) on Tuesday.
3. File all hard copy payroll summary information in binders maintained in the secured Human Resources Tech's office. Binders are sent to storage after audit and held for seven years.

**E: PAYROLL TAXES****Purpose**

To prepare payroll tax returns in a timely and accurate manner.

**Policy**

HACM will insure that tax returns are prepared and paid in a timely and accurate manner.

**Condition**

Payroll tax returns will be submitted to the appropriate taxing body prior to the relevant due dates.

**Associated Materials**

The following forms are prepared by ADP:

**Federal 941** Payroll Tax Form (Due by 4/30, 7/31, 10/31, and 1/31 of each year) – Filed by ADP on behalf of the Authority.

CA State **Form DE-6** – *Quarterly Wage and Withholding Report* (Due by 4/30, 7/31, 10/31 and 1/31 of each year.) – Filed by ADP on behalf of the Authority.

CA State **Form DE-7** – *California Annual Reconciliation Report* (1/31 of each year.) – Filed by ADP on behalf of the Authority.

**Procedures**

Responsibility and Actions

**Human Resources Tech**

1. Review all quarterly and year end reports provided by ADP.
2. File Reports in vault.

**F: LEAVE PAYMENT REQUESTS****Purpose**

To provide payments to employees of earned leave as requested.

**Policy**

HACM will pay employees earned leave as requested with HACM’s regular payroll cycle.

**Condition**

The Human Resources Tech will immediately include leave payment requests with HACM’s regular payroll cycle.

**Associated Materials**

Time Sheets

Leave Request form

**Procedures**

Responsibility and Actions

**All Employees**

1. Will complete “Leave Request” form and forward to immediate supervisor for approval

**Immediate Supervisors**

1. Receive Leave Request forms from employees. Immediate supervisors will determine if sufficient leave is available and approve leave.
2. Forward to Human Resources Tech.

**V. GENERAL ACCOUNTING**

**A: MISCELLANEOUS RECEIPTS**

**Purpose**

To properly record and deposit miscellaneous receipts to the appropriate account.

**Policy**

HACM will insure that all receipts are appropriately accounted for and deposited into the correct account.

**Condition**

All receipts received will be routed to one of the Accounting Techs through inter-office mail and will be deposited and posted within five business days.

**Associated Materials**

Deposit Slips

**Procedures**

Responsibility and Actions

**Accounting Tech**

1. Will prepare bank deposit slip and deposit all miscellaneous receipts timely.
2. Will encode miscellaneous cash receipts for proper General Ledger distribution.
3. Forward bank deposit slip along with all supporting documentation to Assistant FO.

**Assistant FO**

1. Prepare and Post journal entry to record activity to General Ledger.
2. Journal Vouchers are filed in binder and kept in FO office.
3. Deposit Receipts are kept in Vault.

**B: BUDGET****Purpose**

To insure that financial statement assertions are presented accurately.

**Policy**

HACM will analyze for accuracy specific expense accounts reflecting more than \$2,500 and/or 10% variance of the budget or variance from actual on a monthly basis.

**Condition**

All income statement accounts will be reconciled monthly.

**Associated Materials**

Assets

Liabilities

Equity

Revenue

Expense

**Procedures**

Responsibility and Actions

**FO**

**Note – the FO will complete these procedures.**

1. Will compare all actual monthly to budgeted monthly and actual year-to-date to budgeted year-to-date performance on a monthly basis.
2. Will maintain an explanation for budget variances in excess of \$2,500 and/or 10% or more for monthly and year-to-date actual numbers to budget.
3. Will maintain supporting documentation for all actual balances on a monthly basis.
4. Must keep a supporting documentation file for each month which includes the documentation that supports each balance sheet account, a copy of the trial balance, and the month's general ledger.
5. Must be able to provide the Executive Director supporting documentation for any balance sheet account for any month upon request.

**C: JOURNAL ENTRIES****Purpose**

To insure that journal entries are prepared and entered in an accurate and timely manner.

**Policy**

HACM will prepare journal entries based on a standard format to be entered into HACM's General Ledger.

**Condition**

HACM will follow standard procedures for the preparation, review, approval and posting of all entries.

**Additional Materials**

Check off list

**Procedures**

Responsibility and Actions.

**Assistant FO**

1. Set up all Journal Vouchers monthly providing clear, concise explanations and descriptions of all entries.
2. Will post all entries in Accounting Software.
3. Forward all entries to FO for review.

**FO**

1. Review accuracy and validity for all JVs prepared and posted by Assistant FO.
2. Journal Entries are kept in FO's office.

**D: FINANCIAL STATEMENTS and BOARD REPORT PREPARATION**

**Purpose**

To provide the Executive Director, Board of Commissioners, and senior level management with timely and accurate financial operating results.

**Policy**

HACM will prepare and present monthly financial statements to the Executive Director, Board of Commissioners, and senior level management.

**Condition**

The Executive Director is to be responsible for preparing the board package. The FO prepares the section of financial reports.

**Associated Materials**

Agenda

Chief Executives Office Report

Public Hearing

FO Reports

- Income and Expense Reports
- HCV HAP Utilization
- HCV Administrative Fee Utilization

Chief Operating Officer – Public Housing Reports

Chief Operating Officer – Affordable Housing and Development Reports

Information and Discussion items

**Procedures**

Responsibility and Actions

**FO**

1. Income and Expense Reports will be created from the accounting system. These reports contain all income and expense items for all cost centers.
2. All reports will be prepared and submitted to the Executive Director for review no later than by the third Monday of each month.

**Executive Director**

1. Receive various reports from FO.
2. Include the following statements in the Board Package as requested by the HACM Board of Commissioners:
  - Agenda
  - Chief Executives Office Report
  - FO Reports
  - Chief Operating Officer – Public Housing Reports
  - Chief Operating Officer – Affordable Housing and Development Reports
  - Information and Discussion items
  - Any additional schedules requested by the Board or Executive Director.
3. Hand deliver the board package out no later than the Thursday prior to the scheduled board meeting.

**E: BUDGETS****Purpose**

To insure that HACM submits accurate budgets and amended budgets to HUD and other funding sources in a timely manner.

**Policy**

HACM will prepare budgets and amended budgets as prescribed by HUD. Annual LIPH Operating Fund Calculations and Operating Budgets are due to HUD by the date stipulated by HUD.



**Condition**

Budgets and amended budgets will be forwarded to the appropriate funding source prior to the established deadlines.

**Associated Material**

Annual Contribution Contract

Operating Budgets

Operating Fund Calculation

Funding Requisitions

**Procedures**

Responsibility and Actions

**FO**

1. Compile data necessary to calculate Operating Fund Calculation (Subsidy) including, but not limited to, the following items:
  - a. Rent roll for the 6 months prior to the beginning of the fiscal year, or sooner if it changes at all
  - b. HUD's change factor for the rent roll
  - c. Occupancy report-done by asset management as of September 30
  - d. HUD's inflation factor
  - e. 3 years of utility consumption and dollar amounts to compute the rolling base
  - f. Current utility rate
  - g. Units out of occupancy and why they are out of occupancy
2. Coordinate, advice, and discuss budget requests with appropriate management.
3. Prepare Operating Subsidy Calculation for Low Income Public Housing.
4. Submit budget to the Board of Directors for approval.
5. Maintain a file of budgets and amended budgets submitted and approved by the funding source.
6. Enter budget data into the accounting system for reporting purposes.

**F: DUE TO/DUE FROM RECONCILIATION****Purpose**

To insure that HACM reconciles due to/due from balances in accurate a timely manner. Revolving bank account is used to track the due to/due from balances in Yardi.

**Policy**

HACM will reconcile and pay funds owed to the General Fund owed by the AMPs, Section 8, capital funds, and other funds on a monthly basis. HACM will reconcile all due to/due from balances for AMPs as well as other programs on a monthly basis.

**Condition**

All money owed by the AMPs, Section 8 programs, capital funds, and other funds must be reconciled and physically paid back to the General Fund on a monthly basis for expenses paid out of the General Fund's bank account. These expenses include payroll, payroll taxes and vendor payables. In the absence of paying back the general fund, all due to/due from balances will be tracked via a spreadsheet on a monthly basis.

**Associated Material**

Spreadsheets

Checks

Payable Report

**Procedures**

Responsibility and Actions

**Assistant FO****For Section 8**

1. From each of the Section 8 funds, print a payables report.
2. On a monthly basis, track expenses on a spreadsheet of expenses paid from the General Fund checking accounts for each of the Section 8 funds.

3. Approximately one week prior to the end of the month, in the General Fund, break out from the “Interfund” account, by journal entry, the receivable due from each of the Section 8 funds. Use the Spreadsheet to prepare these entries.
4. What is payable by each of the funds on the payables report should match what is recorded in the General funds as what is receivable. Reconcile any differences.
5. Forward spreadsheet to Accounting Tech for check disbursements.
6. File copy of paid check and supporting documentation.

#### **For AMPs**

1. Monthly, track balances and activity between the AMPs and the General Fund on a spreadsheet. The spreadsheet includes a beginning due to/due from balance, the activity by general ledger account code and ending due to/due from balances.
2. The aggregate due to/due from balances for all the AMPs should equal the due to/due from balance on the General Fund. Reconcile any differences.

#### **For Partnership program**

1. On a monthly basis, reconcile the balance between the General Fund interfund account and the NSA program due to/due from account.

#### **Accounting Tech**

1. From paper work received from Assistant FO, prepare check.
2. Attach copy of check to supporting documentation and forward Accountant.

#### **FO**

1. Review all due to / due from balances by the 10<sup>th</sup> of each month.

### **G: GRANT REPORTING**

#### **Purpose**

To report grant activity to HUD in an accurate and timely manner.

**Policy**

HACM will maintain source documentation for all grant receipts and expenditures by grant number and award date. The Chief Operating Officer – Affordable Housing and Development is responsible for the overall preparation and submission of the Capital Fund budget for HACM. This department is also responsible for budget revisions and final report to HUD when the grant is closed.

**Condition**

Grant budget with an actual expenditure including “obligations” is tracked and reported on a regular basis as required by HUD. The grant is recorded in compliance with HUD guidelines and GAAP accounting.

**Associated Materials**

Spreadsheet

**Procedures**

Responsibility and Actions

**FO**

1. Must insure that a spreadsheet is maintained and updated on a monthly basis that reflects grant expenses and LOCCS draws for each grant.
2. Calculate amount to draw, based on a spreadsheet.
3. Reconcile the spreadsheet to the General Ledger each month.

**H: YEAR END CLOSING****Purpose**

To insure that HACM submits timely and accurate year-end financial statements to HUD.

**Policy**

HACM will close its books of accounts in a timely and efficient manner.

**Condition**

The FO will insure that the books of accounts are closed timely and accurately. HACM's fiscal year ends on September 30th.

**Associated Materials**

General Ledger

Financial Report

**Procedures**

Responsibility and Actions

**Accounting Department (Various Employees)**

1. Accrue all payables (salaries, employee benefits, utility expenses, vendors & contractors, Section 8 portables).
2. Accrue all receivables (interest on investments, Section 8 portables, any other income receivables).
3. Verify that the pre-paid insurance register at the end of the year is correct and agrees to the account on G/L.
4. Verify that the investment report totals agree to the appropriate accounts on the G/L.
5. Accrue payment in lieu of taxes for conventional (after accruals for utilities have been posted).
6. Make adjustments to the materials account for materials inventory per Purchasing. Inventory (include office supplies) and set up allowance for breakage/obsolete inventory.
7. Reconcile all bank accounts and record all adjustments.
8. Reconcile all receivables and payables and prepare detailed analysis of any receivables account balances.
9. Update the property ledger ensuring it agrees to the asset accounts, for additions as well as dispositions.
10. Record pre-paid rent as of 9/30 for all programs (deferred revenue).
11. Reconcile FSS GL accounts for the conventional program and Section 8 program ensuring that the FSS detail ledgers agree to the liability accounts

and the investments accounts agree to the bank accounts and that the bank accounts are fully funded.

12. Update homeownership ledgers and reconcile to GL accounts.
13. Insure all ledgers are in balance.
14. Complete Section 8 lease-up schedule.
15. Make entries to record receivables/payables due to/from HUD for the Section 8 program and update reserve accounts.
16. Compute compensated absences for employees and record on G/L.
17. Update depreciation spreadsheets and record depreciation expenses (development cost, CFP, vehicles, inventory).
18. Complete analysis of grant expense versus grant income requested through LOCCS and accrue income receivable due from HUD.
19. Accrue contract retention expense per contract register.
20. Calculate allowance for doubtful resident accounts and make adjustments.
21. Prepare HUD year-end financial statements for Low Income Public Housing and Section 8 programs (for internal-use only). Exception: Section 8 Mod Rehab statements are still submitted to HUD.
22. Prepare a GAAP trial balance report and a Financial Data Schedule (FDS)
23. Prepare a draft of the footnotes to the financial statements.
24. Prepare the Management Discussion and Analysis.
25. Transmit FDS to the Real Estate Assessment Center (REAC) by deadline.
26. Maintain a copy of the REAC transmission and the year-end financial statements submitted to HUD.

### **Human Resources Tech**

#### **Year-end Review**

Before last payroll processed for the fiscal period:

1. Confirm employee names and social security numbers are in the correct format.
2. Confirm deferred compensation plan type is correct and verify employee contribution amounts.

- Check Group-Term Life Insurance adjustments have been updated and submitted.
- If applicable, insure third party sick pay have been updated.
- Verify the employee state unemployment insurance tax rate and taxable wage limit.
- Verify withholding has been made properly or withheld from the final paycheck for taxable fringe benefits.
- Verify terminated employees have zero balances for loans, garnishments, vacation and sick time.
- Check the “purge” coding of any terminated employee who should be removed.
- Determine whether EIC coding has been submitted.
- Review discrepancies such as, negative quarter and year-to-date fields.
- Check on duplicate employees with two file numbers.
- Transfer wages over to recent file number as long as it doesn’t affect prior tax info.
- Compare payroll register totals to Form W-3 totals, for calendar year.

## **I: UPDATING CHART OF ACCOUNTS**

### **Purpose**

To account for all transactions in a manner suggested by the Department of Housing and Urban Development (HUD) and the Real Estate Assessment Center (REAC).

### **Policy**

HACM will account for all transactions in accordance with GAAP. HACM also considers the applicability of GASB regulations over accounting and reporting.

### **Condition**

None

**Associated Materials**

Real Estate Assessment Center Sample Chart of Accounts

PIH Low-Rent Technical Accounting Guide 7510, January 1996

HACM Chart of Accounts

**Procedures**

Responsibility and Actions

**FO**

1. Must take necessary action to insure that accounting classifications used through out HACM is in accordance with HUD and or REAC guidelines.
2. Add accounts as necessary.

**J: PETTY CASH PROCEDURES**

**STATEMENT OF PURPOSE**

The HOUSING AUTHORITY OF THE COUNTY OF MERCED has a fiduciary duty to safe guard the assets of HACM. Cash is a primary asset and therefore a petty cash procedure is required.

**GOVERNING HACM:**

The Petty Cash Procedure of the HOUSING AUTHORITY OF THE COUNTY OF MERCED is governed by:

- Financial Management Guidebook- 7475.1
- Low Rent Accounting Guidebook- 7510.1

**OBJECTIVE**

It is the objective of the HACM to establish and adhere to procedures governing petty cash with the specific intent of safeguarding HACM's assets, and preventing fraud, waste, and mismanagement.



**PETTY CASH PROCEDURE STATEMENT:**

The petty cash fund shall be used by HACM to accommodate those small expenditures that cannot be efficiently addressed by the regular check payment system. At no time should petty cash be used to circumvent the normal requisition/purchase order system of HACM

1. The petty cash fund shall be locked in a secured location.
2. The responsibility for the petty cash fund shall be vested in only one person, the Accounting Tech.
3. The fund shall be established with an initial deposit of \$250 depending upon need.
4. An impress fund system should be used for petty cash.
5. The maximum amount of any individual disbursement should be limited to \$50.00.
6. The petty cash fund should be counted and balanced by an independent employee, the Assistant FO. The reconciliation of petty cash should have supervisory review on a monthly basis.
7. Petty cash should be locked at all times when not in use.
8. Individuals should have written authorization from the FO or his/her designee in writing to access petty cash.
9. When an employee receives authorization, he/she must take request to the Accounting Tech in order to receive the money. He/she must also sign for the petty cash.
10. A properly executed and approved petty cash voucher with receipt(s) attached shall be presented for all reimbursements. In the absence of a petty cash voucher, all receipts shall be signed by property managers or supervisors.
11. When cash is low, the Accounting Tech completes a spreadsheet indicating where money was spent and sends it to the Accounting Clerk and they cut a check to replenish the petty cash fund.

**K: TRAVEL POLICY (See employee Handbook – Travel Policy)****STATEMENT OF PURPOSE:**

The HOUSING AUTHORITY OF THE COUNTY OF MERCED has a duty to insure that the Authority's funds are not being abused in the name of travel. Therefore, a travel policy is required.

**OBJECTIVE:**

It is the objective of the HACM to establish and adhere to procedures governing travel with the specific intent to insure that all trips are approved and valid.

**GENERAL TRAVEL PROCEDURES:**

1. All employees are eligible to travel under HACM, provided the appropriate approval is received. Most, if not all travel is for training purposes.
2. Travel must first be approved by an employee's manager. Once that approval is received, it is sent to the Executive Director for approval. The only exception to these rules is for travel by the Executive Director, which must be approved by the Authority Board of Commissioners prior to the travel of the Executive Director actually occurring.

**TRAVEL REQUEST APPROVAL**

A travel request must be submitted 15 business days before travel is to commence. This policy serves to reduce airline costs and also affords the housing authority ample time to review the costs and general nature of the travel.

The request form should be sent to the Executive Director for review. It must be signed by the supervisor and the Executive Director. It must include the following:

1. Travel Authorization Form for each traveler. This form must be filled out in its entirety, or the request may be denied.
2. Approximate dates and times of departure from Merced and arrival back in Merced (Ex: 10/23/05 @ 7 a.m.)
  3. A registration form for each traveler, if applicable
  4. Trip justification for each traveler
  5. Appropriate signatures and dates on the Travel Authorization Form (Department Head, Executive Director, and traveler)
  6. Estimated cost for per diem (based on federal per diem rates)
  7. Estimated cost of flight, if applicable
  8. A copy of all pertinent information pertaining to trip taken by the traveler

All travel will be coordinated by Executive Assistant. She/he will make all hotel, flight, rental car, and seminar/training reservations.

After the arrangements are made, the details will be forwarded to the FO to determine if the funds are available for the trip and to also insure that the correct account or program gets charged. The FO will forward all information to the Executive Director for final review and approval. Next, the Executive Director will forward all information to the employee, who will forward the information to the accounting department.

Once the travel request is approved, the employee will receive an advance check, usually in the amount of the per diem.

### **TRAVEL BY VEHICLE**

For travel by car, an employee can use an agency car if it is available or choose to use their own vehicles, if they wish. If an agency car is available and they choose to use it, they must keep gas receipts for any purchases made or they will not be reimbursed. If an agency car is not available, the employee will receive the appropriate mileage reimbursement based on the federal reimbursement rates.

### **PER DIEM**

Per Diem rates are based on federal rates, as noted above. The rate that a traveler will receive is the rate for the city or nearest city of their destination. If an employee spends the per diem rate or less than the rate, no receipts or reimbursements are required. The employee receives the per diem regardless of whether he/she spends it in full.

### **TRAVEL BY PLANE**

If an employee travels by plane, mileage to the airport is reimbursed. Mileage on a workday is computed as actual miles from work to the airport including tolls and parking fees. Mileage on weekends is computed as actual mileage from home to the airport including tolls and parking fees.

### **INCIDENTAL TRAVEL EXPENSES**

Other eligible travel incidental expenses are also reimbursed. They are as follows:

1. Rental car expenses, with prior approval (for small or mid size car only)
2. Parking and transportation, such as taxis or buses.
3. Fees, for seminars

4. Reasonable and necessary business calls and faxes

#### **CHANGES TO TRAVEL PLANS**

If an employee makes any changes to his/her travel plans, the employee must notify their supervisor. Failure to do so may result in unnecessary expenses being incurred by either the Housing Authority or the employee.

#### **TRAVEL REIMBURSEMENT**

After travel has ended, the employee has 14 business days to complete a Travel Reimbursement Request and Expense Report form. The form must be submitted to the accounting department and should contain all receipts for non-per diem items. If an employee owes HACM money, they should include the money in a check form with their Travel Reimbursement Request and Expense Report. If they do not pay when they turn in the form, they will be notified first orally and then in writing of their debt to the housing authority.

#### **L: CAPITALIZATION POLICY**

##### **STATEMENT OF PURPOSE:**

This policy is being established for the purpose of stating the Capitalization criteria in determining, distinguishing, and recording equipment, plant, and personal property purchased or acquired by the HOUSING AUTHORITY OF THE COUNTY OF MERCED.

##### **CAPITALIZATION POLICY STATEMENT:**

HACM will capitalize any assets with a purchase price of \$10,000 or higher that has a useful life extending for more than one year.

##### **ASSET RECONCILIATION AND INVENTORY COUNT:**

HACM reconciles fixed assets quarterly and conducts annual inventory counts for all fixed assets. Any discrepancies are further investigated and accounted for by the HACM management team.

**USEFUL BOOK DEPRECIABLE LIVES**

Telephones & Tools	5 years
Buildings	40 years
Site Improvements	30 years
Modernization	10 years
Office Furniture, Fixtures, & Equipment	5 to 7 years
Computer Hardware	3 years
Computer Software	3 years
Cars/Trucks	5 years

**M: INVESTMENT POLICY****STATEMENT OF PURPOSE:**

It is the policy of the HOUSING AUTHORITY OF THE COUNTY OF MERCED to invest its funds in a manner which will provide the highest investment return with the maximum amount of security, while assuring the availability of cash for daily needs.

**GOVERNING STANDARDS:**

The Investment Policy of the HOUSING AUTHORITY OF THE COUNTY OF MERCED is governed by:

- 24 CFR 85.20
- PIH Notice 96-33 "Required HA Cash Management and Investment Policies and Procedures"

**OBJECTIVE:**

It is the objective of the HACM to establish and adhere to policies governing investments with the specific intent of maximizing return on all assets by investing the maximum amount of money in prudent investment vehicles. HACM has adopted all provisions of PIH Notice 96-33.

**INVESTMENT POLICY STATEMENT:**

HACM will complete and maintain a General Depository Agreement (HUD Form 51999) for any program funds that are invested, as required by the Annual Contributions Contract (ACC).

**Selection of a Bank**

The FO selects banks through competitive solicitation via a request for proposal (RFP). All banks must be insured by either the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). HACM insures that all investments exceeding Federal \$100,000 limit are collateralized by pledging U.S. Government Securities.

**Investment Strategy**

In making investments, HACM considers the following:

1. Safety – Safety shall be achieved by adherence to a HUD approved list of transactions (discussed below).
2. Yield – HACM will strive to achieve the highest yield consistent with other factors of this Investment Policy.
3. Liquidity – All investments must be capable of being liquidated on one day's notice.
4. Maturity – Maturity dates will be similar to the date that the cash will be needed. In addition, maturity dates cannot be later than 3 years from the date of purchase.
5. Amount – HACM will consider the amount available for investment.
6. Administrative Cost – HACM will consider the administrative work involved when choosing an investment.

**Approved Investments**

HUD publishes a list of approved investments that the HACM strictly follows. A summary of the list is as follows:

1. US Treasury Bills with 3, 6, 9, and 12 month maturities
2. US Treasury Notes and Bonds
3. Money Market Deposit Accounts
4. CD's or Certificates of Deposit
5. SLMA (Student Loan Marketing Associations) Obligations

6. Small Business Administration (SBA), Small Business Investment Corporation (SBIC) Debentures
7. TVA (Tennessee Valley Authority) Notes and Bonds
8. FHLB (Federal Home Loan Bank) Consolidated Obligations
9. FHLMC Mortgage Participation Certificates (PC) and Collateralized Mortgage Obligations (CMO's)
10. FNMA (Federal National Mortgage Association) Debentures, Notes, Short-Term Discount Notes, and Capital Debentures
11. GNMA- Government National Mortgage Association, Mortgage Backed Securities (GNMA I and GNMA II)
12. Repurchase Agreements
13. Short-term cash and money market sweep accounts
14. Mutual Funds

### **Recordkeeping**

The HACM maintains detailed investment registers summarizing the following:

- a. Amount of investment securities purchased from each fund
- b. A complete description of the investment instrument
- c. Date of purchase
- d. Purchase price
- e. Interest rate
- f. Applicable date of sale of maturity

The HACM also reconciles, or reviews monthly/quarterly reconciliations provided internally or by third parties, invested cash and associated securities purchased/sold balances.

### **Authority to Make Investments**

All investments transactions must be authorized by the Board of Commissioners and documented in the minutes prior to the actual decision and action.

### **Recordkeeping and Safekeeping**

All investments must be kept in a fire-secured location, by someone other than the person who accounts for the investments. They will be maintained in a trust or custodian account, in the name of the HOUSING AUTHORITY OF THE COUNTY OF MERCED. Reconciliations will be performed monthly, from the investment statements to the investment ledger.

**VI. VII. HUD FORMS****A: Public Housing Operating Fund Calculation**

The Public Housing Operating Fund Calculation Forms that are required for submission to HUD will be briefly discussed in the following sections.

The Public Housing Operating Subsidy Calculation is due to HACM's Local Field Office 90 days prior the beginning of the calendar year or as stated by HUD.

Revisions and amended Operating Subsidy Calculations are limited by HUD to error corrections.

The forms that will be presented in this section are as follows:

Form 52574 – PHA Board Resolution

Form 50071 – Certification of Payments to Influence Federal Transactions (Lobbying Disclosure)

Form 52722 – Calculation of Allowable Utilities Expense Level

Form 52723 – Calculation of Operating Subsidy

Form SF 424- Application for Federal Assistance

**Form 52574 – PHA Board Resolution**

HACM's Board Chairperson is required to sign this form to certify that the Board has reviewed the budget submission.



**Form 50071 – Certification of Payments to Influence Federal Transactions (Lobbying Disclosure)**

HACM certifies that no appropriated funds will be used to influence a Member of Congress or any government agency.

**Form 52722 – Calculation of Allowable Utilities Expense Level**

This form calculates the amount of Allowable Utilities expense that HUD will fund for HACM for a fiscal year. The calculation is based on the prior three fiscal years' actual data.

**Form 52723 – Calculation of Operating Subsidy**

This form is used to calculate the actual amount of Operating Subsidy due to HACM for a particular fiscal year. This form incorporates calculations made on other supporting forms/schedules.

**Form SF 424 - Application for Federal Assistance**

This form must be filled out by any agencies that require federal funds. A signature on this form binds HACM to all terms and conditions associated with HUD funding.

**B: Financial Data Schedule**

The Unaudited Financial Data Schedule is due 2 months after the fiscal year end. This form is electronically submitted to the Real Estate Assessment Center.

The Audited Financial Data Schedule is due 9 months after the fiscal year end. This form is electronically submitted to the Real Estate Assessment Center, after the auditor has performed the attestation function.

**C: Performance and Evaluation Reports**

These forms are specifically used for the Capital Fund Programs.

These forms are submitted on four occasions: when the grant is awarded, to amend the budget, annually with the Five Year Plan, and at the closing of the grant.

These forms are prepared for all open grants for the period ending 9/30, and then submitted with HACM's annual plan.

Form 52837 – Annual Statement/Performance and Evaluation Report

Public Housing Agencies; Indian Housing Authorities; Secretary's Representatives; State/Area Coordinators; Directors, Public Housing Divisions; Administrators, Offices of Native American Programs; Resident Management Corporations (RMCs)

Notice PIH 96-33(HA)  
 Issued: June 4, 1996  
 Expires: June 30, 1997

### **Required HA Cash Management and Investment Policies and Procedures**

#### **1. PURPOSE**

The purpose of this Notice is to advise public housing agencies and Indian housing authorities (herein referred to as HAs) and Area Offices of the Department's HA requirements governing cash management and approved investment instruments. The Notice extends and reissues, with minor editorial changes, the policies and procedures, including the list of HUD approved investment instruments, previously set forth in Notice PIH 95-27.

#### **2. BACKGROUND**

The Annual Contributions Contract (ACC) requires the HA to deposit and invest all program funds for projects under an ACC in accordance with the terms of a General Depository Agreement. The General Depository Agreement must be in a form approved by HUD and is executed between the HA and the depository. In addition, the ACC requires the HA to invest General Fund (program) monies only in HUD approved investments.

The Federal Code of Regulations, Part 85, Subpart C, (24 CFR § 85.20) requires HAs to establish cash management procedures. Cash management is the process of managing the cash flow of a HA to optimize its use of funds. This process involves the timing of receipts and disbursements to assure the availability of funds to meet expenditures and to maximize the yield from the investment of temporarily surplus funds. Effective cash management calls for organized planning. Good relations between the HA and the financial institution can improve the effectiveness of a cash management program.

### 3. **APPLICABILITY**

This Notice applies to the Low Rent Public Housing Program, the HA Owned/Leased Housing Homeownership Program (Turnkey III Program), the Section 23 Leased Housing Program, and the Mutual Help Homeownership Program.

### 4. **BANKING SERVICES**

Banking services shall be arranged by selecting a bank through competitive solicitation to assure the HA that it receives the banking services provided at the lowest cost. It should be noted, however, that HAs must designate a single bank account for the deposit of all payments that are received from HUD through Direct Deposit-Electronic Funds Transfer (DD-EFT). (A Standard Form 1199A, Direct Deposit Sign-Up Form, must be submitted to designate this account.) A copy of the General Depository Agreement (see below) with the financial institution shall be attached with the SF-1199A. Once the funds are received, they may be transferred to separate accounts according to the applicable program.

#### a. **General Depository Agreement**

The General Depository Agreement (Form HUD-51999) shall be executed by the HA and the depository. The depository must be a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF). An original HUD-51999 should be maintained by the HA and the financial institution. A copy of the HUD-51999 should be sent to the HUD Area Office and the Field Accounting Office (along with the SF-1199A).

#### b. **Procurement Procedure and Period of Service**

Banking services should be periodically solicited through competitive negotiation. The solicitation in the form of a Request for Proposal (RFP) would permit the HA to evaluate the quality of the services received as well as the price. This periodic process should prevent the bank supplying the services from becoming complacent in its dealings with the HA.

### 5. **COLLATERALIZATION OF DEPOSITS**

HAs shall require their depositories to continuously and fully (100%) secure all deposits regardless of type (i.e. regular, savings, etc.) that are in excess of the

\$100,000 insured amount. This may be accomplished by the pledging or setting aside collateral of identifiable U.S. Government securities as prescribed by HUD. The HA has possession of the securities (or the HA will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the HA as a bailee (evidenced by safe keeping receipt and a written bailment for wire contract) and will be maintained for the full term of the deposit. Such securities shall be owned by the depository and the manner of collateralization shall provide the HA with a continuing perfected security interest for the full term of the deposit in the collateral in accordance with applicable laws and Federal regulations. Such collateral shall, at all times, have a market value at least equal to the amount of the deposits so secured.

## **6. INVESTMENT OF FUNDS**

### **a. Funds Available for Investment**

- 1)** Funds on deposit in the General Fund are comprised of four components: (1) funds for current transaction purposes, (2) development and/or modernization funds (see #2 below), (3) funds exceeding those necessary for the daily operation of the HA which are considered available for investment and (4) any operating reserve funds. As a general rule, the average amount on deposit in the General Fund cash accounts (the targeted maximum cash balance) should be the amount needed on hand for transaction purposes or as a safeguard against cash shortages. In the interest of good cash management, non-interest bearing deposits should be reduced to the amount necessary to maintain a good banking relationship.
- 2)** Under the Modernization and Development Programs, the term "cash management" also means minimizing the time elapsing between the drawdown and disbursement of funds by the HA. HUD has established the maximum time to be generally three working days. Therefore, reference to "excess funds" also means the amount of modernization or development funds drawn down, but not needed for immediate disbursement (see 24 CFR § 85.21 (b)). Interest income earned on modernization funds is included as operating income in the calculation of operating subsidy eligibility under the Performance Funding System (PFS). Interest income earned on development funds is credited to the development program and reduces the development cost of the project.

**b. Approved Investment Securities**

In most cases, purchases of securities shall have maturities which coincide with expected disbursements by the HA. For the purpose of investing operating reserves, issues shall be limited to maturities three years or less. Although some of the following securities have maturities longer than three years, they can be traded in the secondary market. A list of investments approved by HUD for the investment of HA funds is attached. HAs are required to choose from these financial instruments. Within the HUD approved instruments, HAs are permitted to modify their investment policy without prior HUD approvals. The choice of investments from the approved list should be made using the criteria developed in the remainder of this paragraph.

**c. Determination of Investment Type**

The determination of the best or appropriate types and mixtures of investments is dependent on several factors. The primary objective is safety. Once that objective is attained, the optimum return on the investment should be consistent with the goals of the cash management program of the HA. The factors that should be taken into account include the following:

- (1) Safety - Safety is achieved through adherence to the list of permitted investments which are backed by the full faith and credit of, or a guarantee of principal and interest by, the U.S. Government, a Government agency or issued by a Government-sponsored agency, coupled with an appropriate maturity date.
- (2) Yield - The HA should strive to achieve the highest yield consistent with the other factors of the investment policy. Tax-exempt securities are not appropriate for investment by a HA because it would not benefit from the tax advantage.
- (3) Liquidity - All investments must be capable of being liquidated on one day's notice. Therefore, no investments may be made which impose a longer notice period for redemption or which are not readily marketable.
- (4) Maturity - Investments should be scheduled to mature when the funds are needed. Sale of securities prior to maturity should be avoided due to the inherent risk. (If the market interest rate increases above the

yield on the investment, the market value of the securities will decline.) Investments shall be limited to securities maturing in periods of up to one year, or such lesser period that coincides with expected disbursements by the HA, but not beyond the current financing cycle. HAs may invest in securities up to three years for the investment of operating reserves.

- (5) Amount - The best or most appropriate type of investment depends, to some degree, on the amount available for investment because certain investments require a large initial amount.
- (6) Administrative Cost - In choosing an investment, a HA must consider the administrative work involved, particularly with regard to investments of short duration. Substantial amounts can be invested for periods as short as one or two days. However, the administrative costs with small amounts may be greater than the return on the investment, thus would not be justified or cost effective. Administrative costs will be higher with a more frequent turnover of investments and must be taken into account together with the yield and term in determining the optimum investment strategy.

**d. INVESTMENT OF FUNDS HELD BY HA FISCAL AGENTS**

Funds held by the Fiscal Agent in any trust funds shall be invested in strict accordance with the Resolution establishing such funds. Where the Resolution contains no provision concerning the investment of funds, the funds shall be invested in securities approved for General Fund Investment provided such investment will mature or may be redeemed at the option of the purchaser at not less than the purchase price on or prior to the date such funds are required to be disbursed by the Fiscal Agent. A description of funds established by HA resolutions authorizing the issues of bonds is attached.

**e. Investment Register**

An investment register or other record shall be maintained by the HA or its agent. The register/record shall be maintained in such a manner that a determination can be made as to the amount of investment securities purchased from each fund and at a minimum provide for recording a complete description of investment instrument, date of purchase, purchase

price, interest rate, and applicable date of sale or maturity. The investment

register/record may also be used to identify the source of funds invested (i.e., modernization or development funds, tenant security deposit funds, operating funds).

**f. Internal Controls**

HAs shall implement the following internal controls to assist in controlling investments and preventing loss or misuse.

- (1) Investment transactions shall be authorized by the HA governing board and documented in the board minutes.
- (2) Investment documents shall be kept in a safe fire-resistant locked file cabinet, safe deposit box, or other similarly secured location.
- (3) Individuals responsible for custody of securities shall be someone other than an individual maintaining the accounting records.
- (4) Investments shall be maintained in a custodian or trust account.
- (5) Investments shall be in the name of the HA.
- (6) Investments shall be recorded in detail in an investment ledger.
- (7) A system shall be in place to insure that all interest earned is collected and credited to the appropriate HA records.
- (8) Investments shall be reconciled periodically to the detailed record (investment ledger).

**7. CASH MANAGEMENT**

A major factor contributing to the success of an investment program is the delegation of responsibility and authority for developing and executing it. A HA should compare the cost of establishing a cash management program in-house (if qualified professional staff are available) to contracting out. If HAs contract for cash management and investment services, then the organization should have qualified personnel to achieve cost-effectiveness. Commercial banks and savings and loans association offer such services.



Good cash management, which is an objective of management, creates responsibilities for the use of funds. Such responsibilities are placed on both the HA and HUD for a successful program to benefit both. The primary goals of cash management are to assure the availability of cash for transaction needs, preserve the value of cash resources and earn the maximum return on funds until disbursed.

**a. Cash Management by the HA**

The HA should compare the return from an in-house cash management program with a program managed by an agent. If the HA finds that administrative costs of an in-house program are such that the net yield on investments is less than that obtainable through an alternative, the general rule is that the HA should use that alternative.

**b. Cash Management by an Agent**

As an alternative to an in-house cash management program, a HA may enter into a contract with an approved governmental unit such as a State agency established for this purpose (see attachment A, #6, Municipal Depository Fund), or a financial institution (excluding investment bankers and brokerage houses) to administer its cash management program.

Such a program may include any of the functions of cash management, i.e., receipts, disbursements and investments. Such a contractual arrangement will give a small HA the expertise and administrative skills which it would not otherwise be expected to have and often can make a cash management program cost-effective.

**c. Temporary Funds Available for Investment**

- (1) Each HA with an average cash balance of \$20,000 or more shall invest such funds in HUD-Approved Investment Securities in order to meet the PFS Target Investment requirements (24 CFR Section 990.109 (e), 24 CFR §950.725 (e)).

HAs with average cash balances of less than \$20,000 shall also invest such funds in HUD-Approved Investment Securities. For the purpose of calculating operating subsidy eligibility under the PFS (24 CFR Section 990.109 (e), 24 CFR §950.725 (e)) these HAs shall make a reasonable estimate of investment income for the requested budget

year. Please note that investment income estimates for these HAs are not subject to the mandatory year-end adjustment.

- (2) See Handbook 7475.13, Performance Funding System (PFS), regarding reporting requirements for projecting investment income for the purpose of calculating PFS operating subsidy eligibility. These requirements mandate a minimum investment income (Target Investment Income) for calculating operating subsidies and allow HAs to retain investment income in excess of the required amount. HAs should review these requirements carefully in developing their cash management programs.

## **8. MONITORING**

The Office of Finance and Budget, PIH, will continue to oversee the overall cash management policy and programs for HAs. Actual monitoring of each HA's cash management will continue to be the responsibility of the respective Area Office. Monitoring will be accomplished through review of documentation submitted to support the investment income shown in the calculation of operating subsidy and during on-site monitoring reviews.

If there are questions regarding the contents of this Notice, please contact the Office of Finance and Budget at 202-708-1872.

\_Casimir Bonkowski for Acting  
Assistant Secretary for Public and Indian Housing

Attachments

## ATTACHMENT A

**HUD APPROVED INVESTMENT INSTRUMENTS**1. Direct Obligations of the Federal Government Backed by the Full Faith and Credit of the United Statesa. U.S. Treasury Bills

These securities are short-term obligations which a HA or its agent may purchase directly. Treasury Bills with 3- month and 6-month maturities are issued weekly and those with 9-month and 12-month maturities are issued monthly. The minimum denomination is \$10,000. They are issued on a discount basis and are redeemed at par upon maturity.

U.S. Treasury Bills are available for purchase at any time after issuance from investment departments of banks and from dealers in investment securities. Purchases may be made conveniently using the HA's depository bank. Treasury Bills may be acquired by subscription on the issue date from a Federal Reserve Bank or branch in amounts not in excess of \$200,000. Detailed information is contained in the weekly or monthly announcements which may be received regularly upon application to a Federal Reserve Bank or branch.

b. U.S. Treasury Notes and Bonds

These securities are issued periodically by the Treasury Department through Federal Reserve Banks and branches. They are medium to long-term obligations which a HA or its agent can only purchase in the secondary market to assure that they will mature at a date which coincides with scheduled disbursements by the HA. Outstanding issues may be purchased from banks or dealers in investment securities at the market price which on any given day may be more or less than the face amount.

(1) U.S. Treasury Notes

These notes mature in not less than one and not more than 10 years from the issue date and bear interest at fixed rates payable semi-annually.

(2) U.S. Treasury Bonds

These bonds mature after ten years from the issue date and bear interest at fixed rates payable semi-annually. Many issues of bonds are redeemable on call by the Treasury Department before maturity. The yield of such issues usually is computed to the first call date which may be as much as 5 years prior to maturity.

2. Obligations of Federal Government Agencies

a. Federal Financing Bank (FFB)

The Federal Financing Bank is authorized to purchase obligations held by Federal agencies and to issue obligations to the public.

b. Government National Mortgage Association (GNMA), Mortgage-Backed Securities (GNMA I and GNMA II)

The securities, guaranteed by GNMA are issued by an issuer (a GNMA-approved mortgage lender). The securities are backed by a pool of government-insured or guaranteed mortgages. The holders of the securities receive monthly payments of principal and interest. The minimum denomination issued is \$25,000. The difference in GNMA I and GNMA II is that the GNMA II payment date is on the 20th of the month and the GNMA I payment date is on the 15th; GNMA II uses a central paying agency whereas GNMA I has individual issuers sending checks to investors; and GNMA II has interest rates that vary within a one percent range. The maximum maturity for GNMA I and GNMA II is 30 years, except that GNMA I project loans mature in 40 years.

c. GNMA Participation Certificates

These securities, guaranteed by GNMA, were sold by GNMA as the trustee with various other Federal agencies as trusters. They represent beneficial interest in future payments of principal and interest on mortgage pools. Their maturities range between one and 20 years and the minimum denomination is \$5,000.

d. Maritime Administration Merchant Marine Bonds, Notes, and Obligations

These securities are issued by shipping companies and are backed by the full faith and credit of the U.S. Government. Each issue is further secured by a first preferred ship or fleet mortgage. Maturities and denominations vary.

e. Small Business Administration (SBA), Small Business Investment Corporation (SBIC) Debentures

When authorized by appropriation acts, the SBA may guarantee principal and interest payments on debentures of SBIC. The SBA may also pool these debentures and sell SBA- guaranteed debentures. These issues have maturities of 10 years and are issued in \$10,000 denominations.

f. Tennessee Valley Authority (TVA) Power Bonds and Notes

These securities are secured by a first charge on net power proceeds. Payment of interest and principal on them is ranked ahead of annual payments to the U.S. Treasury. They have been issued in multiples of \$1,000.

3. Securities of Government-Sponsored Agencies

a. Farm Credit Consolidated System-Wide Discount Notes

These notes are the secured joint and several obligations of the Farm Credit System which consists of the Federal Land Banks, the Federal Intermediate Credit Banks, and the Banks for Cooperatives. They are issued in denominations of \$5,000 and maturities are authorized from 5 to 365 days.

b. Federal Farm Credit Banks Consolidated System-wide Bonds

These bonds are the secured joint and several obligations of the Farm Credit Banks. Their issuance supersedes individual bond issues by the Federal Land Banks, the Federal Intermediate Credit Banks, and the Banks for Cooperatives. They are issued in multiples of \$1,000 for maturities in excess of 13 months and in multiples of \$5,000 for shorter maturities.

c. Federal Home Loan Banks Consolidated Obligations

These securities are the secured joint and several obligations of the Federal Home Loan Banks comprised of:

(1) Bonds

Bonds which have maturities of one year or more. They are issued in multiples of \$10,000, \$25,000, \$100,000 and \$1,000,000.

(2) Notes

Notes which have maturities of less than one year. They are issued in multiples of \$10,000, \$25,000, \$100,000 and \$1,000,000.

(3) Discount Notes

Discount notes which have maturities ranging from 30 to 170 days. They are issued in denominations of \$100,000 and \$1,000,000.

d. FHLMC Mortgage Participation Certificates (PC) (Guaranteed)

These certificates represent undivided interest in specific fixed rate, first lien conventional and residential mortgages. FHLMC provides monthly interest and principal payments. The final payment is the first of the month and year in which the last monthly payment on the last maturing mortgage is scheduled to be paid.

e. FHLMC Collateralized Mortgage Obligations (CMOs)

CMOs are general obligations of FHLMC that are secured by a single pool of conventional mortgages owned by FHLMC. CMOs are issued in several classes with varying stated maturities. Semiannual principal payments are allocated to each class of the CMOs in the order of the stated maturity of each class so that no principal payments are made to holders of a class until classes with an earlier maturity are retired.

f. Federal National Mortgage Association (FNMA) Debentures

These debentures are issued in denominations ranging from \$10,000 and with maturities ranging from 20 to 25 years.

g. FNMA Notes

The minimum investment in these notes is \$50,000 with maturities ranging from 1 to 20 years.

h. FNMA Short-Term Discount Notes

These notes are similar to commercial paper and are tailored to the individual needs of investors. They are sold at published rates with maturities of 30 to 270 days and in denominations ranging from \$5,000.

i. FNMA Capital Debentures

These debentures are subordinated to the non-capital debentures, notes, and short-term discount notes. They were last issued in 1975 in a \$10,000 minimum denomination and with maturities of 5 and 25 years.

j. Student Loan Marketing Associations (SLMA) Obligations

SLMA issues obligations comprises of guaranteed student loans as follows:

(1) Floating Rate and Master Notes.

These notes bear interest at rates that vary with the 91-day Treasury Bill rate. Short-term borrowing have an original or remaining term maturity of one year or less.

(2) The Series E and F Floating Rate Notes.

These notes bear interest at rates which vary with the 91-day Treasury Bill, except that each issue has fixed minimum and maximum rates known as interest rate "collars" for any quarterly interest period.

(3) Zero Coupon Notes

These notes are shown at net proceeds adjusted for accretion of discount.

4. Demand and Savings Deposits

Demand and savings deposits at commercial banks, mutual savings banks, savings and loan associations and credit unions are permitted for HA funds provided that the entire deposit is insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). A deposit in excess of the insurance coverage may be made at a depository institution provided that it is 100 percent collateralized by any of the securities listed under paragraphs 1, 2, and 3 of this Attachment. Care should be taken that withdrawals may be made on demand without loss of interest and without penalty.

5. Money-Market Deposit Accounts

Money-Market Deposit Accounts at depository institutions that may not be insured fully by the FDIC or NCUSIF are permitted provided that the certificates are fully backed by 100 percent collateral consisting of securities listed under paragraphs 1, 2, or 3 of this Attachment. When accounts exceed the \$100,000 insurance limitation, their safety also may depend on the HA's control of the underlying collateral which must consist of clearly identified (not pooled) U.S. Government securities. Possession of the collateral securities and a continuous perfected security interest may be the only sure protection against loss in case of financial institution failure.

6. Municipal Depository Fund

A Municipal Depository Fund (Fund) or Local Government Investment Pool which is established by States, municipalities, units of local government or other political subdivisions to serve as an investment fund for HAs is permitted. The securities purchased by a Fund shall be on the HUD-approved list of investment securities. HA shall have either an undivided or divided interest in securities comprising the Fund. The Fund shall be under the control of the Investment Company Act of 1940, and its objective shall be clearly stated. The investment objective of the Fund shall be to obtain as much income as possible consistent with the preservation and conservation of capital. The Fund shall disclose clearly the basis of earnings and how they are distributed. HA shall obtain a statement of potential default and risk and a clear demonstration that withdrawals from the Funds will not be so restricted as to impair a HA's day-to-day cash management



needs. The management fee shall be fixed at a reasonable amount and management shall be passive. HA shall limit the amount of funds invested in the Fund to no more than 30 percent of a HA's available investment funds. The Fund shall disclose the relationships of the investment advisor, manager, trustees, custodian and transfer agent. Each financial advisory relationship shall be evidenced by a written document executed prior to, upon, or promptly after the inception of the financial advisory relationship, or promptly after the creation or selection of the issuer. If the issuer does exist or has not been determined at the time the relationship commences, that written document shall set forth the basis of compensation for the financial advisory services to be rendered.

7. Super NOW Accounts

Super NOW accounts have been available and approved for public funds since January 1983. They offer a relatively high market rate and are fully transactional (have no limitations on the number of checks or transfers). Insurance and collateral requirements are as above for subparagraph e Demand and Savings Deposits.

8. Certificates of Deposit

- a. Certificates of Deposit are permitted at depository institutions that are insured by an agency of the Federal Government. Caution must be exercised for certificates exceeding the \$100,000 insurance limit or when the term is longer than 30-90 days. Although the certificates' rate of return may be attractive for larger amounts and longer terms, U.S. Treasury securities offer superior safety and liquidity for the same amounts and terms. Certificates shall be in the HA's name. In addition a General Depository Agreement must be executed by each financial institution that issues a Certificate of Deposit.
- b. Certificate amounts above \$100,000 are permitted provided that the excess is 100 percent collateralized by clearly identified (not pooled) U.S. Government securities. Possession of the collateral securities and a continuous perfected security interest may be the only sure protection against loss in case of bank failure.
- c. Brokered deposits should be avoided because it is impossible to get \$100,000 federal insurance on a number of deposits placed by brokers.

## 9. Repurchase Agreements

Repurchase (repos) agreements for a term not to exceed 30 days may be entered into with Federally insured depository institutions to purchase and sale of securities identified under paragraphs 1, 2, and 3. A repurchase agreement is an agreement negotiated with a bank usually for a short period (1 to 7 days) wherein securities approved for investment are purchased from that bank at a stated price with the bank agreeing to repurchase them on a specified date for a specified amount. The minimum may vary, although it is usually \$100,000. There are three main types: (1) fixed term, where both parties are bound to the negotiated time period, (2) demand, where the agreement stays in effect until terminated by either party, and (3) day-to-day, where daily renewal is by mutual consent and 24- hour notice is required for termination. The HA should review existing and future repos for compliance with the following certifications. Prior approval by HUD is not necessary, however, the repos seller depository or its agency must provide a written certification to HUD, Assistant Secretary for Public and Indian Housing (Office of Finance and Budget), the Area Office, and to the HA.

- a. that the depository's repo program complies with applicable Federal and State statutes and regulations and that the program does not involve sales or loans of Federal securities by securities dealers that are not regulated or that report to the Federal Reserve Board;
- b. that the depository owns the underlying Federal securities (approved for repurchase under HUD guidelines) when the repo interest is sold and that the value of the securities is equal to or greater than the amount the HA pays for the repo;
- c. that the HA has possession of the securities (or the HA will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the HA as a bailee (evidenced by a safe keeping receipt and a written bailment for hire contract), from the time the repo interest is sold to the HA and will be (or is expected to be) maintained for the full term of the repo;
- d. that the repo agreement and any related documents identify specific Federal securities related to the specific repo purchased by the HA;

- e. that the repo interest does not represent any interest in a pool or fund of Federal securities for which registration under the Investment Company Act of 1940 may be required;
- f. that the HA will have a continuous perfected security interest in the underlying Federal securities under State or Federal law for the full term of the repo (disclosing the method by which perfection has or will be accomplished, i.e., by possession, filing, registration of book-entry securities and/or Federal preemption of State law by Federal regulation);
- g. that the depository or a reporting dealer selling the repo has not received any adverse financial report from a credit reporting agency, State or Federal regulatory agency; and
- h. that the depository will not substitute other securities as collateral, except to increase the value of the repo security to match the repos's purchase price.

#### 10. Sweep Accounts

Sweep Accounts is a contractual agreement between a bank and a HA which provides that the bank will regularly "sweep" or transfer any available collected balances from the HA's account into repurchase agreements. The Sweep Accounts agreement shall include all the certification provided in the Repurchase Agreement and adherence to paragraph 4-3, Collateralization of Deposits.

#### 11. Separate Trading of Registered Interest and Principal of Securities

Separate Trading of Registered Interest and Principal of Securities (STRIPS) are Treasury-based zero-coupon securities which consist of interest or principal on U. S. Treasury securities. STRIPS were issued in minimum increments of \$1,000. STRIPS pay no interest until maturity and the rate of return is "locked in" at the time of purchase. The delivery of STRIPS is accomplished by wire transfer through the Federal Reserve book entry system. STRIPS shall be in the name of the HA.

#### 12. Mutual Funds

A Mutual Fund (Fund) is an investment company that makes investments on behalf of individuals and institutions. The Fund pools the money of the investors and buys various securities that are consistent with the Fund's objective.

a. Mutual Fund Criteria

The Fund shall be organized as a no-load, open-end, diversified management company and its shares shall be registered under the Securities Act of 1933. The Fund shall be under the control of the Securities Exchange Act of 1934, Investment Advisers Act of 1940 and the Investment Company Act of 1940. The investment objective of the Fund shall be to obtain as much income as possible consistent with the preservation, conservation and stability of capital. The mutual fund objective cannot be changed without the prior approval of fund shareholders.

- b. The securities purchased by the Fund shall be on the HUD-approved list of investment securities. The Fund will not engage in options or financial futures. The HA shall limit the amount of funds invested in the Fund to no more than 20 percent of the HA's available investment funds. The Fund shall disclose clearly the basis of earnings and how they are distributed. The HA shall obtain a statement of potential default and risk. The HA's invested funds shall be accessible to the HA daily. It shall be demonstrated that any limitations on withdrawals will not impair the HA's day-to-day cash management needs.
- c. The management fee shall be fixed at a reasonable amount. The Fund shall disclose the relationships of the investment advisor, manager, trustee, custodian and transfer agent. The Fund shall clearly state all services (such as wire transfers and check writing privileges) and charges.
- d. Investment in the Fund shall be authorized by a Board Resolution. A certified copy of the resolution shall accompany the initial application for the Fund.
- e. The Fund (or custodian) and the HA shall sign the General Depository Agreement, HUD-51999 dated June 1991, modified as follows:
- (1) In the title, "(Mutual Fund)" shall be added after General Depository Agreement. Whenever "depository" appears in the text it also refers to "mutual fund."
  - (2) The HA's name and location (including county or city) will be filled in the first clause of the General Depository Agreement. The name, location and the HA's mutual fund account number also will be filled in the first clause. The second clause remains unchanged.

- (3) The third clause is substituted as follows: "Whereas, under the terms of the Contract the HA shall invest in a mutual fund (herein called the depository) only on the terms set forth hereafter. Mutual fund is defined as an investment company that makes investments on behalf of individuals and institutions. The depository shall be organized as a no-load, open-end, diversified management company and its shares shall be registered under the Securities Exchange Act of 1933. The depository shall be under the control of the Securities Exchange Act of 1934, the Investment Advisers Act of 1940 and the Investment Company Act of 1940. HA shall acquire shares in a mutual fund whose portfolio includes only securities on the HUD-approved list of investment securities."
- (4) Paragraphs 1, 3, 11 and 12 are deleted.
- (5) Paragraphs 4 through 6 are modified to read as follows:
  - (a) Paragraph 4: Any shares purchased from HA funds shall be held by the depository in safe-keeping for the HA until sold. Dividends and distributions on such shares and the proceeds from the sale thereof shall be used to purchase additional shares or remitted directly to the HA.
  - (b) Paragraph 5: The language "from said Accounts" is deleted.
  - (c) Paragraph 6: The language "in respect of the Accounts" is deleted.
  - (d) Paragraphs 7 through 10 are not changed.
  - (e) The additional language can be typed on a separate page, attached and duly executed. The following language shall be added to the bottom of the page: Page number \_\_\_ incorporated in and made a part of the General Depository Agreement between \_\_\_(HA) and \_\_\_ (Depository).

## ATTACHMENT B

## **INVESTMENT OF FUNDS HELD BY HA FISCAL AGENTS**

### Description of Funds

The funds established by HA resolutions authorizing the issuance of bonds to finance the development cost of projects are as follows:

(1) Debt Service Fund

This Fund is established pursuant to the Annual Contributions Contracts and HA Resolutions providing for the issuance of new HA bonds. The Fiscal Agent is explicitly required under the form of the Fiscal Agency Agreement entered into since 1964 to purchase and sell investment securities as the HA, with the approval of the Federal Government, may direct. Where a Fiscal Agency Agreement does not contain a specific requirement for the investment of Debt Service Funds, such investment must, nevertheless, be made since it is a general power and duty of a trustee, (implied if not expressed) to keep funds properly invested in order to attain safety and produce income for the trust funds.

(2) Advance Amortization Fund

- (a) Since 1952, the form of Fiscal Agency Agreement in use requires the Fiscal Agent to invest funds on deposit in the Advance Amortization Fund as the HA, with the approval of the Federal Government, may direct.
- (b) With respect to the investment of funds resulting from a consolidated sale of bonds by an Agency Authority, only the Agency Authority of HUD may issue investment instructions to the Fiscal Agent. These instructions shall be consistent with HUD guidelines.

(3) Annual Contributions Reduction Account (sometimes called Supplementary Revenues Account); Bond Service Account; Series A Reserve Fund; General Bond Reserve Fund; Rental Debt Service Fund; and Excess Lands Account.

The Resolution authorizing Series A and Series B Bonds issued prior to 1951 established these funds and the Resolution usually contains limitations on the investment of funds on deposit in one or more of such accounts.

Public reporting burden for this collection of information is estimated to average 1 hour per response. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. HUD will use this information to ensure PHAs use all Program Receipts received from HUD or otherwise associated with public housing funds for purposes of public housing, by requiring such financial assistance to be deposited into interest-bearing accounts at certain financial institutions. The information requested does not lend itself to confidentiality.

**This Agreement**, entered into this \_\_\_ day of \_\_\_, 20\_\_\_ by and between \_\_\_ (herein called the “HA”), a duly organized and existing public body corporate and politic of the \_\_\_ of \_\_\_ and \_\_\_ (herein called the “Depository”), located at \_\_\_.

**Witnesseth:**

**Whereas**, the Department of Housing and Urban Development (herein called “HUD”) has entered into one or more Annual Contributions Contracts (herein called the “ACC” with the HA for the purpose of providing financial assistance to develop and operate lower income housing projects, as authorized by the United States Housing Act of 1937, as amended (42 USC 1437, et seq.); and

**Whereas**, under the terms of the ACC the HA is required to select as depositories of its funds, financial institutions whose deposits or accounts are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF) as long as this Agreement is in force and effect.

**Now Therefore**, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. The deposits and accounts of the Depository shall continue to be insured by the FDIC Corporation or NCUSIF.
2. All monies deposited by the HA with the Depository shall be credited to the HA in a separate interest-bearing deposit or interest-bearing accounts, designated “Accounts” (herein the “Accounts”). Any portion of HA Funds not insured by a Federal insurance organization shall be fully (100%) and continuously collateralized with specific and identifiable U.S. Government or Agency securities prescribed by HUD in a notice. Collateralization is required on a daily basis at the end of the business day. Such securities shall be pledged and set aside in accordance with applicable law or Federal regulations. The HA shall have possession of the securities (or the HA will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the HA as a bailee (evidenced by safe keeping receipt and a written bailment for hire contract) and will be maintained for the full term of deposit. The Depository may substitute other securities as collateral to equal or increase the value. If the HA is an agency of an Indian tribe, the collateral shall be in United States bonds and otherwise as may be prescribed for public funds by the United States Secretary of the Treasury.
3. Except as stated in Paragraph 5, the Depository shall honor any (a) check or other order to pay from the Accounts, or (b) directive to purchase investment securities with monies from the Accounts or to sell securities, if such order or directive is in writing and signed on behalf of the HA by an officer or member designated by resolution of the Board of Directors of the HA to have such authority. To assist the Depository in its obligation, the HA shall furnish the Depository with a certified copy of the resolution.
4. Any securities received from the HA or purchased by the Depository with monies from the Accounts shall be considered to be a part of the Accounts and shall be held by the Depository in safe-keeping for the HA until sold. Interest on such securities and the proceeds from the sale thereof shall be deposited in the Account upon receipt
5. If the Depository receives written notice from HUD that no withdrawals by the HA from the Accounts are to be permitted, the Depository shall not honor any check or other order to pay from the Accounts or directive to purchase or sell securities, or permit any withdrawals by the HA from said Accounts until the Depository is authorized to do so by written notice from HUD.
6. The Depository is not obligated to be familiar, and shall not be charged, with knowledge of the provisions of the ACC, and shall be under no duty to investigate or determine whether any action taken by either the HA or HUD in respect of the Accounts are consistent with or are authorized by the ACC or whether either HA or HUD is in default under the provisions of the ACC. The Depository shall be fully justified in accepting and acting on, without investigation, any certificate or notice furnished to it pursuant to the provisions of this Agreement and which the Depository shall in good faith believe to have been duly authorized and executed on behalf of the party in whose name the same purports to have been made or executed
7. The rights and duties of the Depository under this Agreement shall not be transferred or assigned by the Depository without the prior written approval of the HA and HUD. This Agreement may be terminated by either party hereto upon thirty days’ written notice to the other party, and HUD. The rights and duties of the Depository hereunder shall not be transferred or assigned nor shall this Agreement be terminated during any period in which the Depository is required to refuse to permit withdrawals from the Accounts as provided in Paragraph 5.

8. HUD is intended to be a third-party beneficiary of this Agreement and may sue to enforce its provisions and to recover damages for failure to carry out its terms.

9. The Depository shall provide the HA with remote, electronic access to the Accounts for the purpose of monitoring the crediting or depositing of any monies in the Accounts.

10. The provisions of this Agreement may not be modified by either Party without the prior written approval of HUD

11. **Strike this paragraph if inapplicable:** Previous General Depository or Savings Depository Agreements, if any, entered into between the Depository and the HA are hereby terminated and all monies and securities of the HA on deposit with or held by the Depositories pursuant to the terms of said Agreement shall continue to be held for account of the HA pursuant to and in accordance with the provisions of this Agreement.

12. **Strike this paragraph if paragraph 2 applies:** For use only in certain States that have statutes that prohibit HAs from implementing paragraph 2.

At no time shall the HA Funds in the Accounts be permitted to exceed the amount insured by Federal deposit insurance (herein the "Insured Amount"). At any such time as the amount of funds in the Accounts reach the Insured Amount, whether by the accrual of interest or otherwise, the Depository shall promptly, as directed by the HA, and in an amount sufficient to limit the funds in the Accounts to the Insured Amount, either: (a) remit payment to the HA or, (b) on behalf of the HA, purchase securities approved for investment by the HA. Such securities shall not be considered to be a part of the Account pursuant to Paragraph 4 hereof but shall be held by the Depository as custodian or trustee for the HA in a separate account established for that purpose by the Depository (herein the "Securities Account"). The Securities Account shall be designated as \_\_\_\_\_.

Income or other proceeds from securities held in the Securities Account shall, as directed by the HA, upon receipt, be paid to or on behalf of the HA; provided, however, that such proceeds shall, to the extent consistent otherwise with the provisions of this Paragraph, be deposited in the Accounts. If the Depository receives written notice from HUD pursuant to Paragraph 5 hereof that no withdrawals by the HA from the Accounts are to be permitted, the Depository shall not honor any directive from the HA to sell securities, or permit any withdraws by the HA, from the Securities Account until the Depository is authorized to do so by written notice from HUD.

During the pendency of such restrictions on the Accounts and the Securities Account, the Depository, except as directed in writing by HUD, shall not remit any payment to the HA for the purpose of limiting the amount of funds in the Account to the Insured Amount but shall instead purchase securities approved for investment by the HA and hold such securities in the Securities Account.

13. Notice required under the terms and conditions of this agreement shall be deemed to have been given when it made by:

\_\_\_\_\_, on behalf of \_\_\_\_\_  
Title Organization (HA)

\_\_\_\_\_, on behalf of \_\_\_\_\_  
Title Organization (Depository)

\_\_\_\_\_, on behalf of \_\_\_\_\_  
Title Organization (HUD)

Notice shall be made in writing. Notice may be delivered in person, by United States Postal Service mail, by receipted commercial mail delivery, by facsimile machine or other electronic means that clearly identifies the sender as one of the persons so authorized in this paragraph. **Notice under the terms of this agreement shall be implemented by the Depository within 24 hours of actual receipt.**

**In Witness Whereof**, the HA and the Depository have caused this Agreement to be executed in their respective names and their respective seal to be impressed hereon and attested as of the date and year first above written.

\_\_\_\_\_  
HA  
(SEAL)  
ATTEST:  
By \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Depository  
(SEAL)  
ATTEST  
By \_\_\_\_\_



REQUEST FOR PROPOSALS NO. 2018-13, Banking Services

Declared Earnings Allowance for the Past 6 Months

Each proposer must fully complete this form and submit such with the proposal submittal.

Month	Declared Earnings Allowance
October 2018	
September 2018	
August 2018	
July 2018	
June 2018	
May 2018	

COMPLETED BY:

\_\_\_\_\_  
Signature                      Date                      Printed Name                      Company Name