

**TRAVAUX INC.**  
**C/O HOUSING AUTHORITY OF THE CITY OF MILWAUKEE**  
**809 NORTH BROADWAY**  
**MILWAUKEE, WISCONSIN 53202**

**BID PACKAGE 9016**

**REQUEST FOR QUOTATIONS**

**PORTABLE TOILETS**  
**AT WESTLAWN GARDENS PHASE 2**

**ISSUE DATE: APRIL 29, 2022**

This DOES NOT represent a commitment to buy.  
Any ACTUAL order resulting from this solicitation will be confirmed by a Travaux purchase order.

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Prospective Bidder:

TRAVAUX INC. C/O THE HOUSING AUTHORITY OF THE CITY OF MILWAUKEE, Milwaukee, Wisconsin, will receive quotations for **Portable Toilets at Westlawn Gardens Phase 2** until **2:00 PM (CDST) on Friday, May 6, 2022**, at the Modernization & Development Services office located at 401 East Ogden Avenue, Milwaukee, WI 53202.

Quotations may be mailed/delivered to the office, or emailed to Tim Hoyer of Travaux/Housing Authority at [tim.hoye@travauxinc.com](mailto:tim.hoye@travauxinc.com).

Regardless of method of conveyance, quotations must be received by the due date and time.

Questions regarding scope, terms and conditions, and bidding may be directed to Tim Hoyer of Travaux/Housing Authority, 414-209-1807, [tim.hoye@travauxinc.com](mailto:tim.hoye@travauxinc.com).

Questions regarding Emerging Business Enterprises (EBE) and WHEDA requirements may be directed to Konita Jude of the Housing Authority, 414-286-2940, [kpjude@hacm.org](mailto:kpjude@hacm.org).

**SCOPE:**

This Request for Quotations is for rental of Portable Toilets at Westlawn Gardens Phase 2 (located in the area bound by W Silver Spring Dr, W Custer Ave, N 60th St, and N 68th St, Milwaukee, WI 53218).

Rental shall be on an as-needed basis.

Travaux/Housing Authority will determine the number of portable toilets needed as construction progresses.

Handicap accessible portable toilets are not required at this time.

The exact quantity of toilets is unspecified; however, the estimate is 7 to 15 portable toilets needed at any given time at the construction site.

Bidders must submit their pricing to include the following:

- Unit price per month (\$/month) for each portable toilet, which shall include weekly cleaning, delivery, and pick-up, as needed.
- Other unit pricing for additional/ancillary services related to portable toilets.

## **TERMS AND CONDITIONS:**

### **1. Pricing and Term of Contract/Purchase Order:**

Pricing shall be firm for an initial term of one (1) year.

The contract/purchase order may be extended up to four (4) additional one-year terms upon mutual consent of both parties.

Re-negotiation of pricing may be entertained at the time of each extension but is not guaranteed.

Contractor shall provide lien waiver and/or release if requested.

Pricing obtained from this Request for Quotations may be extended to other project sites as needed.

### **2. Use and Sales Tax:**

This solicitation is NOT exempt from Wisconsin Use and Sales Tax.

Bidders, therefore, shall add any applicable State of Wisconsin Sales Tax or Use Tax to their proposals when bidding to Travaux Inc. and shall include in their bids the taxes they will be required to pay directly as a consumer when obtaining materials, equipment, etc. to fulfill the contract requirements, should they be the successful bidder.

Bidders are ultimately responsible for determining the impact of the State of Wisconsin's Sale and Use Tax on their bids.

### **3. Terms and Conditions of the Request for Commodity Pricing:**

See attached "Terms and Conditions of the Request for Commodity Pricing", which shall apply to this Request for Quotations.

Bidder shall complete the Acceptance (Page 6) and submit with quotation.

### **4. EBE Requirements:**

See the attached "Prime Contractor Formal Contract Provisions for Subcontracting with Emerging Business Enterprises".

Bidder shall complete Form A (Affidavit of Compliance) and Form B (List of EBE Subcontractors) and submit with quotation.

Bidder must complete these forms even if bidder does not have a need to subcontract and/or if bidder is not itself a certified EBE.

### **5. Award of Contract/Purchase Order:**

Travaux Inc. reserves the right to: reject any and all bids, quotations, or proposals; waive informalities, technical defects, and minor irregularities; award by item or in the aggregate; make multiple awards; accept the bid, quotation, or proposal (if any) deemed most advantageous to and in the best interests of Travaux Inc.

Award may be based on price, bidder's availability to provide the specified goods and/or services when required, and bidder's expertise and past performance.

A late modification of an otherwise successful bid, quotation, or proposal that makes its terms more favorable to Travaux Inc. may be considered at any time it is received and may be accepted.

**TRAVAUX INC.  
C/O HOUSING AUTHORITY OF THE CITY OF MILWAUKEE  
P.O. BOX 324  
MILWAUKEE, WISCONSIN 53201  
BY: WILLIE L. HINES, JR., SECRETARY-EXECUTIVE DIRECTOR**

**04/29/2022**

## **TERMS AND CONDITIONS OF THE REQUEST FOR COMMODITY PRICING**

**GLOBAL REVISION: Whenever and wherever “Housing Authority of the City of Milwaukee” and “HACM” appear in this document, they shall be changed to “Travaux Inc.”**

### 1. AWARD OF BID

a. Bids will be awarded to the lowest responsive and responsible bidder whose bid conforms to the specifications.

b. The Housing Authority of the City of Milwaukee (HACM) reserves the right to reject any and all bids and all or part of a bid; to waive informalities, technical defects, and minor irregularities in bids received; and to select the bid(s) deemed most advantageous to the HACM. The HACM shall consider bids submitted on an "all or nothing" basis if the bid is clearly designed as such.

c. The HACM may accept any item or group of items of any bid, unless the bidder qualifies his bid by specific limitations. Unless otherwise provided in the solicitation, bids may be submitted for any quantities less than those specified and the HACM reserves the right to make an award of any item for a quantity less than the quantity bid at the unit prices bid unless the bidder specifies otherwise in their bid.

d. Upon acceptance by the HACM, the solicitation, Invitation to Bid, Request for Proposals and/or purchase orders issued to the successful bidder within the time specified, shall be deemed to result in a binding contract without further action by either party. Items are to be furnished as described in the bid and in strict conformity with all instructions, conditions, specifications, and drawings contained in the complete contract.

### 2. BID DOCUMENT REQUIREMENTS

All bids must be submitted on forms furnished by the HACM and shall be subject to all requirements of the Specifications and Drawings (if applicable).

Bids shall be sealed in an envelope, which shall be clearly labeled with the bid number, and date and time of opening (if applicable).

### 3. CASH DISCOUNTS

All bidders must state their best cash discount on this bid form for payments made thirty (30) days following acceptance. Discounts will not be considered in determining the award. In connection with any discount offered, time will be computed from date correct invoice is received by HACM, provided that the delivery and acceptance of supplies has already been made. If not, time will be computed from the date the supplies are delivered and accepted.

#### 4. DELAYS IN DELIVERY

Delays in delivery caused by any bona fide strikes, government priority or requisition, riots, fires, sabotage, acts of God, or any other delays deemed by the HACM to be clearly and unequivocally beyond the contractors control will be recognized by the HACM. The contractor may be relieved of the responsibility of meeting the delivery time as stipulated in the contract upon contractors' filing with the HACM just and true statements requesting an extension of delivery, signed by the contractor and giving in detail all the essential circumstances which, upon verification by the HACM. The request for extension must be filed with the Procurement and Contracts Director or designee no later than seven (7) calendar days prior to the actual delivery date. Failure to file this request for delivery extension shall render the contractor liable for the difference between the "Open Market" and the contract price, and other costs, as applicable, under the uniform commercial code.

#### 5. DELIVERY F.O.B. DESTINATION

All bid prices must include delivery "Free On Board" (F.O.B.) destination unless otherwise specified in the bid invitation.

#### 6. GOVERNMENT PRICING

Suppliers may bid lower than U.S. Government contract prices. The HACM is exempt from the Robinson Patman Act. Quotation must conform to government regulations on prices and wages.

#### 7. INSPECTION AND ACCEPTANCE

Inspection and acceptance will be at destination unless otherwise specified. Inspection and acceptance shall take place at the specified location shown in the shipping address. Upon delivery and acceptance, or rejection, any risk of loss will be the responsibility of the Contractor unless loss results from negligence of the HACM. Vendor will be notified of rejected shipments. Unless agreed otherwise, items will be returned freight collect.

#### 8. LATE SHIPMENTS

Vendor is responsible for notifying the Procurement and Contracts Director or designee of any late or delayed shipments. The HACM reserves the right to cancel all or any part of an order if the shipment is not made as promised.

#### 9. LIQUIDATED DAMAGES

The Contractor or supplier is responsible for completing the project or supplying the materials within the time frame established in the contract unless written requests for time extensions are authorized in writing by the Procurement and Contracts Director or designee. If the work is not completed by the contract delivery date or performance date, the contractor or supplier shall be liable for liquidated damages resulting from such unexcused delays. Damages will be assessed according to a formula that is reasonable in light of the harm caused by default or act or omission.

#### 10. LOSS AND DAMAGED SHIPMENTS

Risk of loss or damage to items prior to the time of their receipt and acceptance by the Authority is upon the supplier. The Authority has no obligation to accept damaged shipments and reserves the right to return at the supplier's expense damaged merchandise even though the damages were not apparent or discovered until after receipt of the items.

11. NONDISCRIMINATION

The successful bidder will not discriminate against any employee or applicant for employment because of age, race, creed, color, sex, sexual orientation, handicaps or national origin or ancestry, and as provided by section 109-15 of the Milwaukee Code of Ordinances and Authority. This provision must be included in all subcontracts.

12. NON-INTEREST OF HACM EMPLOYEES AND OFFICIALS

No official or employee of the HACM shall have any financial interest, either direct or indirect, in the bid or contract. No official or employee of the HACM shall exercise any undue influence in the awarding of the bid or contract.

It is the policy of the HACM that contracts shall not be awarded to any officials that includes individuals who have left HACM employment within the past 12 months, or individuals who are currently members of HACM board or commissions.

13. PACKAGING

Materials shall be clearly labeled and packaged according to industry standards. Improper packaging which may cause material loss, damage, or delay shall be the liability of the contractor/supplier.

14. PAYMENT FOR CONTRACT PERFORMANCE

Upon the complete performance of this contract by the contractor, and after the acceptance of said performance by the HACM, the HACM shall pay to the contractor any balance then remaining due and payable under the terms of this contract for said work, material, services, items, supplies or equipment.

15. PRICE

Prices quoted are to be firm and final. All prices quoted shall be net and shall reflect any available discount except for discounts for timely payment. All prices are to be F.O.B. designated delivery point. All shipping, packing and drayage charges are the responsibility of the supplier. C.O.D. shipments will not be accepted unless otherwise agreed to in writing by the Procurement and Contracts Director or designee.

16. QUALITY

Unless otherwise required by terms of the solicitation, all goods furnished shall be new, in current production, and the best of their kind. When applicable, parts and maintenance service shall be reasonably available. New equipment that is obsolete or technically outdated is not acceptable. Remanufactured or reconditioned items are not considered new. Items shall be properly packaged, packed, labeled, and identified in accordance with commercial standards acceptable to the trade and as required by Interstate Chambers of Commerce and other federal and state regulations. Packing slips shall accompany the shipment.

17. SUBSTITUTIONS AND EQUIVALENTS

Brand name or equal. Whenever the name of the manufacturer or the supplier is mentioned on the face hereof and the words "or equal" do not follow, it shall be deemed that the words "or equal" shall follow such designations unless the face hereof specifies "No Substitutions." The HACM reserves the right to return at the bidder's expense all items that are not acceptable as equals, said items to be replaced by the bidder with satisfactory items at the original bid price or less.

~~18. TAXES TO BE EXCLUDED FROM PRICE~~

~~All bids must be submitted without the inclusion of federal excise and Wisconsin sales taxes as the City/HACM is exempt therefrom.~~

**NOTE: Clause 18 is not applicable to this solicitation, i.e. the purchase is not tax-exempt and bidders should include excise and sales taxes in their bids.**

19. WARRANTY

The Contractor agrees that the supplies or services furnished under this contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the Authority by any other clause of this contract.

20. WITHDRAWAL OF BIDS

Bids may be withdrawn only in total and only by a written request addressed to the Procurement and Contracts Director or designee prior to the award of the contract. The Procurement and Contracts Director or designee has sole discretion to grant a request for a withdrawal of bid only in the case of an error that will result in a significant financial hardship. Partial bid withdrawal is not acceptable.

21. SLAVERY DISCLOSURE

“If the successful bidder was in existence during or prior to the slavery era (i.e. before 1865), then the bidder or shall complete an Affidavit Of Compliance For Disclosure Of Participation In Or Profits Derived From Slavery By Contractors affidavit in accordance with Milwaukee Code of Ordinance 310-14 before a purchase order or contract can be executed (unless such an affidavit has already been submitted and it is on file with the Business Operations Division of the City of Milwaukee). For details on this requirement, see the following website:

<http://city.milwaukee.gov/Directory/Procurement/Forms.htm#.U4oSpKMo71P>”

22. WISCONSIN PUBLIC RECORDS LAW

Both parties understand that the HACM is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. 19.21, *et seq.* The Contractor acknowledges that it is obligated to assist the HACM in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement, and that the Contractor must defend and hold the HACM harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Agreement.

23. EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS

The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

24. RIGHT IN DATA AND PATENT RIGHTS (Ownership and Proprietary Interest).

The HACM 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 the Contract.

25. 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.

26. 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.

27. TERMINATION FOR CAUSE AND FOR CONVENIENCE  
(contracts of \$10,000 or more)

a. The HACM may terminate this contract in whole, or from time to time in part, for the HACM's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The HACM 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: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the HACM all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.

b. If the termination is for the convenience of the HACM, the HACM 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 (cause/default), the HACM may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the HACM, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract of otherwise, and the Contractor shall be liable for any additional cost incurred by the HACM; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the HACM by the Contractor. In the event of termination for cause/default, the HACM shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Procurement and Contracts Director or designee.

Any questions regarding this bid please call Kent Britton, Director of Procurement and Contracts at (414) 286-5863 or kent.britton@hacm.org.

**ACCEPTED BY:**

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

By \_\_\_\_\_ Print Name \_\_\_\_\_  
(signature)

Date \_\_\_\_\_ Title \_\_\_\_\_

Revised 03/03/2021



**HOUSING AUTHORITY OF THE CITY OF MILWAUKEE (HACM)  
PRIME CONTRACTOR FORMAL CONTRACT PROVISIONS  
FOR SUBCONTRACTING WITH EMERGING BUSINESS ENTERPRISES**

**I. GENERAL**

A. The HOUSING AUTHORITY OF THE CITY OF MILWAUKEE (HACM) is its own Contracting Officer and shall make every feasible effort to ensure that Emerging Business Enterprises (EBEs) shall participate in all formal contract activities. EBEs include Minority-Owned Business Enterprises (MBEs), Women-Owned Business Enterprises (WBEs), Disadvantaged Business Enterprises (DBEs), Small Business Enterprises (SBEs), Veteran Owned Business Enterprises (VOBs), and other designations as determined by the source of contract dollars as explained below.

1. Where Federal (HUD) funding is involved, these provisions shall ensure MBEs and/or WBEs in accordance with Public Law 95-507 and 2 CFR 200.321. The target participation percentage is 20% or more or any combination thereof. MBEs and WBEs must be currently certified by race and gender-based certification program such as the State of Wisconsin Department of Administration (DOA), other Wisconsin government entities, or entities within the Federal Government.
2. Where Non-Federal funding is involved, the target participation percentage is 20% or more of MBE, WBE, DBE, EBE, SBE, VOB, or any combination thereof. These firms must be certified by a Wisconsin governmental entity.
3. Where mixed funding is involved, i.e. Federal (HUD) and Wisconsin Housing and Economic Development Authority (WHEDA), the target participation percentage is 25%, of which 20% must be MBE, WBE, or any combination thereof, and the remaining 5% may be any designation recognized by WHEDA (e.g. MBE, WBE, DBE, EBE, SBE, VOB)

B. **This contract calls for:**

- Federal (HUD) 20 % MBE, WBE, or any combination thereof subcontract participation.
- Non-Federal 20 % MBE, WBE, DBE, EBE, SBE, VOB, or any combination thereof subcontract participation.
- Mixed Funding (HUD and WHEDA) 25 % overall EBE subcontract participation, of which 20% must be MBE, WBE (HUD), or any combination thereof, and the remaining 5% may be any designation recognized by WHEDA (e.g. MBE, WBE, DBE, EBE, SBE, VOB) or any combination thereof.

C. The Prime Contractor shall prepare and submit timely and accurate EBE utilization forms and reports to HACM. The forms and reports shall include but not be limited to the following:

1. Form A: Prime Contractor Affidavit of Compliance (contractor's commitment to EBE percent participation)
2. Form B: Prime Contractor List of EBE Subcontractors
3. Electronic Vendor Compliance Reporting System: HACM's Electronic Vendor Compliance Reporting System at <https://hacm.diversitycompliance.com> (B2Gnow) will be utilized during the term of this contract. The Prime Contractor and its subcontractors must provide all necessary information, when requested, for account setup and shall report all payments in the system. In addition, the Prime Contractor and its subcontractors shall provide all required compliance data with respect to any applicable EBE requirements via the electronic system. The Prime Contractor and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. The Prime Contractor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

Failure to submit the required forms and reports fully completed to HACM may result in actions, such as rejection of the bid or proposal, delay of payments, or other appropriate actions. Final contract payments shall not be made until final EBE subcontractor payment certification forms are on file with HACM.

D. During the performance of this contract, HACM reserves the right to conduct compliance reviews of the Prime Contractor and EBE subcontractors and require documentation that will indicate levels of compliance by the Prime

## HOUSING AUTHORITY OF THE CITY OF MILWAUKEE

Contractor and EBE subcontractors. If a contractor is not in compliance with the specifications, HACM will notify the contractor in writing of the need to take corrective action. If the contractor fails or refuses to take corrective action as directed, HACM may take one or more of the following actions:

1. Terminate or cancel the contract, in whole or in part.
2. Recommend HUD debarment of the Prime Contractor from award of a Federally-funded contract.
3. Withhold payments on the contract.
4. Any other remedy available to HACM at law or in equity.

## II. DEFINITIONS

- A. *Disadvantaged Business Enterprise (DBE)* means a small business concern that is owned, operated, and controlled by one or more disadvantaged individuals. The disadvantaged individuals must have day-to-day operational and managerial control, as well as, interest in capital, financial risks, and earnings commensurate with the percentage of their ownership.
- B. *Disadvantaged Individual*, means a person who is a citizen or lawful permanent resident of the United States and who has experienced and who continues to experience substantial difficulty in achieving business-related success.
- C. *Minority Business Enterprise (MBE)*, means a small business concern that is at least fifty-one percent (51%) owned by one or more minorities (as defined below) and whose management and daily operations are controlled by one or more minority owners.
- D. *Minority*, means a person who is a citizen or a lawfully admitted permanent resident of the United States who is a member of one of the following groups:
1. *Black Americans*, includes persons having origins in any of the Black racial groups of Africa.
  2. *Hispanic Americans*, includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
  3. *Native Americans*, includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  4. *Asian-Pacific Americans*, includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
  5. *Asian-Indian Americans*, includes persons whose origins are from India, Pakistan, and Bangladesh.
  6. *Hasidic Jewish Americans*, In conjunction with HUD and the community, recognized membership in this group will be addressed on a case-by-case basis.
- E. *Women Business Enterprise (WBE)*, means a small business concern that is at least fifty-one percent (51%) owned by one or more women and whose management and daily business operation are controlled by one or more women owners.
- F. *Minority/Women Business Enterprise (M/WBE)*, means a small business concern that is at least fifty-one percent (51%) owned by one or more minority women and whose management and daily business operations are controlled by one or more minority women owners.
- G. *Small Business Enterprise* means a business that is independently owned, not dominant in its field of operation, and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 CFR Part 121 should be used to determine business size.
- H. *Joint Venture* shall be eligible under this program if the EBE or partners own at least fifty-one percent (51%) of the joint venture and share to an equivalent percent in the management responsibilities, risks, and profits of the joint venture, as well as being responsible for a clearly defined portion of the work performed.
- I. *Owned, Operated, and Controlled*, means a business that meets one of the following:

## HOUSING AUTHORITY OF THE CITY OF MILWAUKEE

1. A sole proprietorship legitimately owned and controlled by an EBE.
2. A partnership or joint venture legitimately owned, operated, and controlled by disadvantaged individuals, minority individuals, or women who own at least 51% of the beneficial ownership interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.
3. A corporation legitimately owned, operated, and controlled by one or more minority individuals or women, if applicable, who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

### III. EBE UTILIZATION REQUIREMENTS

#### A. MBE, WBE (Federal)

Twenty percent (20%) or more MBE and/or WBE participation. Note that MBE and/or WBE participation pertains to the base bid excluding specified allowances, but including, alternates and change orders. MBE and WBE commitments relative to contract award shall be based upon the approved Form B, "Prime Contractor List of EBE Subcontractors."

#### B. MBE, WBE, DBE, EBE, SBE, VOB (Non-Federal)

Twenty percent (20%) or more MBE, WBE, DBE, EBE, SBE, and/or VOB participation. Note that MBE, WBE, DBE, EBE, SBE, and/or VOB participation pertains to the base bid excluding specified allowances, but including, alternates and change orders. MBE, WBE, DBE, EBE, SBE and/or VOB commitments relative to contract award shall be based upon the approved Form B, "Prime Contractor List of EBE Subcontractors."

#### C. Mixed Funding (HUD and WHEDA)

Twenty-five percent (25%) or more **overall EBE subcontract participation, of which 20% must be MBE, WBE (HUD)**, or any combination thereof, and the remaining 5% may be any designation recognized by WHEDA (e.g. MBE, WBE, DBE, EBE, SBE, VOB) or any combination thereof. Note that EBE participation pertains to the base bid excluding specified allowances, but including, alternates and change orders. EBE commitments relative to contract award shall be based upon the approved Form B, "Prime Contractor List of EBE Subcontractors."

#### D. The determination of an EBE shall be based on the following criteria:

1. The firms identified as EBE by the Prime Contractor on Form B, "Prime Contractor List of EBE Subcontractors," must be certified by one of the specified agencies prior to bid opening.
2. The Prime Contractor shall pay special attention to the area(s) specified as the business specialty by the applicant business in the certification application. New or expanded business specialties are subject to certification review by the certifying agency.
3. The Prime Contractor shall be credited for the entire expenditure to an EBE only if all of the identified scope of work has a commercially useful function in the actual work of the contract and is performed directly by the certified EBE.
4. The Prime Contractor shall be credited for the expenditure to an EBE manufacturer only if the manufacturer produces goods from raw materials or substantially alters material for resale. Twenty-percent (20%) or less of the overall EBE participation goal may be expended for EBE suppliers that do not operate or maintain a store, warehouse, or other establishment in which the materials or supplies are kept in stock and regularly sold to the public in the usual course of business. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.
5. The Prime Contractor shall count toward the EBE participation goal only expenditures to EBEs that perform a commercially useful function in the actual work of the contract. EBEs are required to notify the SECTION 3 COORDINATOR in writing if they will further subcontract out work on the contract. SECTION 3 COORDINATOR shall be notified in writing of labor shortages, if any, affecting the contract work. The HACM CONTRACTING OFFICER OR DESIGNEE and SECTION 3 COORDINATOR will make the final

## HOUSING AUTHORITY OF THE CITY OF MILWAUKEE

- determination and evaluation of whether or not the firm is performing a commercially useful function on the contract.
6. The Prime Contractor shall be credited one hundred percent (100%) of expenditures to an EBE delivery service, hauler, or trucker of materials and supplies required on a job site, but not the cost of the materials and supplies.
  7. The Prime Contractor shall count toward the EBE participation goals only expenditures to EBEs that perform a commercially useful function in the actual work of the contract. The Prime Contractor is required to notify the HACM CONTRACTING OFFICER OR DESIGNEE if its EBEs will further subcontract out work on the contract. Credit will be given based on actual participation by the EBEs. Credit will not be given for work subcontracted by EBEs without prior approval from SECTION 3 COORDINATOR.
- E. The Form A, "Prime Contractor Affidavit of Compliance," must be submitted with the bid or proposal, indicating the appropriate EBE percent (%) participation.
- F. The Form B, "Prime Contractor List of EBE Subcontractors," may be submitted with the bid or proposal. The deadline date for receipt of the list by HACM is the third (3rd) business day following the date of the bid or proposal opening unless by special arrangement with SECTION 3 COORDINATOR. Revision to the initial list is due the second (2<sup>nd</sup>) business day following receipt of the initial list.
- G. Information on Form B shall include but not be limited to:
1. Each EBE subcontractor's name, address, telephone number, and authorized contact person(s) for the EBEs that will participate on the contract.
  2. A description of the scope of work to be performed by each EBE on the contract.
  3. Each EBE subcontractor's dollar values and corresponding percentages that the dollar values represent of the total contract amount.
  4. Listing of EBEs on Form B shall constitute a representation that the Prime Contractor has communicated directly with the EBEs listed, and agreed to the specified work and dollar values. If awarded the contract, the bidder or offeror shall enter into a written subcontract with each EBE for its portion of the work as indicated.
- H. Failure to submit an Affidavit of Compliance (Form A) may render the bid or offer non-responsive and could result in an award recommendation to the next apparent low bidder or offeror.
- I. Only EBEs that have been certified as such by the specified certification agency may be listed on Form B. The firms shall be counted towards the targeted percentage on this project. Directories of certified firms may be obtained from the specified certification agencies. Copies of EBE's certifications must be submitted with Form B.
- J. After execution of the contract, if for any reason, an EBE cannot perform the specified work, the Prime Contractor shall immediately provide the HACM CONTRACTING OFFICER with a written explanation detailing the reason, and including a request for approval from SECTION 3 COORDINATOR to substitute another certified firm or approval of an EBE if a replacement has been identified.
- K. Approval to delete or replace initial EBEs must be obtained from SECTION 3 COORDINATOR prior to making the deletion or replacement. Any difference in the cost occasioned by such substitution, deletion, or replacement shall be borne by the Prime Contractor.
- L. If the Prime Contractor has a problem in meeting the EBE goal or if any other issues relative to EBEs arise during the completion of this project, the Prime Contractor shall immediately inform the HACM CONTRACTING OFFICER in writing with a copy to SECTION 3 COORDINATOR detailing the issues.
- M. Certification as an EBE from programs other than from those agencies specified is neither accepted by HACM nor has any bearing whatsoever on the eligibility criteria established by the specified certification agencies.

**BIDDER/OFFEROR INSTRUCTIONS  
FOR COMPLETING EMERGING BUSINESS ENTERPRISES FORMS**

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**PRIME CONTRACTOR AFFIDAVIT OF COMPLIANCE (FORM A)  
PRIME CONTRACTOR LIST OF EBE SUBCONTRACTORS (FORM B)**

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Step 1:

Thoroughly review the “Prime Contractor Formal Contract Provisions for Subcontracting with Emerging Business Enterprises”

Step 2:

Note the type of business(es) targeted for participation on this project. See Article I, Paragraph A, on Page 1 of the Provisions (“This contract calls for...”). This section specifies the type of business(es) and the target participation percentage(s) for this particular contract.

Step 3:

On the Prime Contractor Affidavit of Compliance (Form A), fill in the subcontract percentage participation on the lines(s) that correspond to the type of targeted business(es) indicated at Article I, Paragraph A, on Page 1 of the Provisions.

For example, if the Provisions call for 20% MBE and/or WBE participation, you may indicate the following on the Affidavit of Compliance:

- A. MBEs at 20%; OR
- B. WBEs at 20%; OR
- C. MBEs at 10% and WBEs at 10% (or any combination of percentages totaling the overall target percentage).

Note that the Prime Contractor Affidavit of Compliance is a part of the bid or request for proposals and requires submission with the bid or proposal.

Step 4:

On the Prime Contractor List of EBE Subcontractors (Form B) list businesses that correspond to the type of targeted business(es) indicated at Article I, Paragraph A, on Page 1 of the Provisions. Provide copies of all EBE certifications on Form B.

Note: The Prime Contractor List of EBE Subcontractors (Form B) may be submitted with the bid or proposal but must be submitted within three (3) business days following the bid or proposal opening.

**Questions regarding EBE participation or reporting forms may be directed to:  
Gabriel DeVougas, Section 3 Coordinator, at (414) 286-2940 or gmdevou@hacm.org**

**PRIME CONTRACTOR AFFIDAVIT OF COMPLIANCE  
FOR PARTICIPATION IN THE HACM EMERGING BUSINESS ENTERPRISE PROGRAM**

**Official Notice #** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Project Description:** \_\_\_\_\_

The bidder/offeror's commitment for MBE participation on this project is ..... \_\_\_\_\_%

The bidder/offeror's commitment for WBE participation on this project is ..... \_\_\_\_\_%

The bidder/offeror's commitment for DBE participation on this project is ..... \_\_\_\_\_%

The bidder/offeror's commitment for Other participation on this project is ..... \_\_\_\_\_%

For Other, indicate type (e.g. EBE, SBE, VOB): \_\_\_\_\_

HACM may reject and disqualify any bid or proposal that does not include the Emerging Business Enterprise Program. HACM may reject and disqualify any bid if the contractor fails to consider the "Prime Contractor Formal Contract Provisions for Subcontracting with Emerging Business Enterprises."

The undersigned hereby states that he/she has not discriminated in any manner on the basis of race, sex, or national origin in any manner in the preparation of the attached bid or proposal or in the selection of subcontractors or material suppliers for such bid/proposal.

The undersigned acknowledges, understands, and agrees that submission of a bid or proposal shall commit the bidder or offeror to comply with HACM's Emerging Business Enterprise Program, including the submittal of Forms A and B.

The undersigned also states that all the above information is true and correct to the best of his/her knowledge.

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

\_\_\_\_\_  
Authorized Signature and Title

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

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, who acknowledges that he/she executed the foregoing document for the purpose therein contained for and on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

**Notary Public** \_\_\_\_\_, **State of** \_\_\_\_\_, **County of** \_\_\_\_\_

**My Commission Expires:** \_\_\_\_\_

**PRIME CONTRACTOR LIST OF EBE SUBCONTRACTORS**

Date Form B Submitted \_\_\_\_\_ Initial List/Date \_\_\_\_\_   
 Revised List/Date \_\_\_\_\_

**This form must be fully completed. The deadline for submission of this document to the HACM, by the Prime Contractor, is three (3) business days following the bid or proposal opening date, or with the bid or proposal.**

Official Notice # \_\_\_\_\_ Date: \_\_\_\_\_

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

Prime Contractor \_\_\_\_\_

Total Bid/Proposal Amount \$: \_\_\_\_\_

**Consult Article I, Paragraph A, on Page 1 of the Provisions to determine target subcontract percentage and targeted types of business(es) for this particular solicitation.**

MBE \$'s: \_\_\_\_\_ / % of Total Bid DBE \$'s: \_\_\_\_\_ / % of Total Bid

WBE \$'s: \_\_\_\_\_ / % of Total Bid Other \$'s: \_\_\_\_\_ / % of Total Bid

**List all proposed subcontractor(s) and material supplier(s) for this project. It is the bidder or offeror's obligation to obtain the appropriate EBE Participation. Copies of EBE certifications must be submitted with this form.**

Firm Name, Address, Phone, Email, and Contact Person	M B E	W B E	D B E	Other (indicate type)	Work to be Performed / Material Supplied	% of Total Bid or Proposal	Amount	Signature of EBE owner or representative needed to confirm all information herein