



Hawaii Public Housing Authority  
State of Hawaii

**RFQ OED-2015-05**

**Request for Qualifications for a Master  
Developer for the Mixed Income, Mixed  
Use Redevelopment of the HPHA's  
Administrative Offices and the  
Development of Low Income Public  
Housing Units on the Island of Oahu**

*Note: If this Request for Qualifications (RFQ) was downloaded from the Hawaii Public Housing Authority's website, each interested respondent must provide the necessary contact information to the listed RFQ Coordinator to be notified of any changes. Please complete and email, fax or mail the Notice of Intent to Respond form to the RFQ Coordinator. The HPHA shall not be responsible for any missing addenda, clarifications, or other information regarding this RFQ if a response is submitted from an incomplete submittal.*

Issued January 13, 2015



## Notice to Respondents

### REQUEST FOR QUALIFICATIONS (RFQ) No. RFQ OED-2015-05

Notice is hereby given that pursuant to Chapter 356D-12.5, Hawaii Revised Statutes (“HRS”), the Hawaii Public Housing Authority (“HPHA”), will be accepting qualifications for a **Master Developer for the Mixed Income, Mixed Use Redevelopment of the HPHA’s Administrative Offices and the Development of Low Income Public Housing Units on the Island of Oahu.**

The Request for Qualifications may be picked up at the HPHA’s Contract and Procurement Office located at 1002 North School Street, Building D, Honolulu, Hawaii 96817 or downloaded at the HPHA website at: [www.hpha.hawaii.gov](http://www.hpha.hawaii.gov) beginning January 13, 2015. Interested respondents should have extensive experience in developing low income, affordable housing properties and mixed income, mixed use housing properties.

The HPHA’s Contract and Procurement Office will conduct a Pre-Submittal Conference at 9:00 a.m. Hawaii Standard Time (HST) at the HPHA Building E Boardroom, 1002 North School Street, Honolulu, Hawaii 96817 on Thursday, February 5, 2015. The HPHA strongly recommends that all interested respondents attend. For those interested in attending via conference call, please contact the RFQ Coordinator listed below no later than 4:00 p.m. HST, Wednesday, February 4, 2015.

A Notice of Intent to Respond is required and must be received by the HPHA’s Central Files, 1002 North School Street, Building D, Honolulu, Hawaii 96817 no later than 4:30 p.m. HST, Tuesday, February 10, 2015. The Notice of Intent to Respond may be mailed, hand-delivered, filed by fax at (808) 832-6039 or emailed to [rick.t.sogawa@hawaii.gov](mailto:rick.t.sogawa@hawaii.gov).

Submission of sealed qualifications will be received at the HPHA’s Central Files Office at 1002 N. School Street, Building D, Honolulu, Hawaii 96817 until 4:00 p.m. HST on Tuesday, March 10, 2015. Electronic mail and facsimile transmissions **shall not** be accepted. The official time shall be that which is recorded on the time stamp clock of the HPHA for all delivered submittals. Deliveries by private mail services, such as Federal Express, shall be considered hand deliveries. All mail-in submittals delivered/postmarked by the United States Postal Service **must be received** no later than 4:00 p.m. HST on Tuesday, March 10, 2015.

The HPHA reserves the right to reject any and all submittals and to accept the submittals in whole or part in the best interest of the State. Questions relating to this solicitation shall be directed to RFQ Coordinator, Mr. Rick Sogawa at (808) 832-6038.

HAWAII PUBLIC HOUSING AUTHORITY

Hakim Ouansafi  
Executive Director



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10. HUD Form 2992 Certification Regarding  
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11. Submittal Checklist

Due March 10, 2015  
For Information Only

## **Section 1 Administrative Overview**

### **I. Introduction**

This Request for Qualifications (hereinafter "RFQ") is being issued to begin a process to select one (1) master developer to assist the Hawaii Public Housing Authority (hereinafter "HPHA") in the replacement of its Administrative Offices (central office) and development of additional public housing units on the site on the Island of Oahu.

This redevelopment effort will be the third (3<sup>rd</sup>) HPHA initiative to enter into a public-private partnership.

### **II. Authority**

The Hawaii State Legislature established the HPHA) under Chapter 356D, Hawaii Revised Statutes (HRS). The HPHA provides low income housing and is attached to the Department of Human Services for administrative purposes only. The HPHA is a public body and a body corporate and politic of the State of Hawaii. The HPHA's role is to address the housing needs of low income families in Hawaii.

This RFQ is issued under the provisions of Section 356D-12.5, HRS and the United States Department of Housing and Urban Development's (hereinafter "HUD") regulations. Interested respondents are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed submittal by any interested respondent shall constitute admission of such knowledge on the part of such interested respondent.

### **III. RFQ Organization**

This RFQ is organized into five (5) sections:

- Section 1    Administrative Overview – Provides interested respondents with an overview of the procurement and contracting process.
- Section 2    Scope of Services and Specifications – Provides interested respondents with a general description of the tasks to be performed, delineates interested respondent's responsibilities, and defines deliverables as applicable.
- Section 3    Submittal Form and Instructions – Describes the required format and content for the submittal.
- Section 4    Submittal Evaluation & Award– Describes how submittals will be evaluated.
- Section 5    Appendix

#### **IV. Contracting Office**

The Contracting Office is responsible for overseeing the procurement and issuing the Contract resulting from this RFQ. The Contracting Office is:

Hawaii Public Housing Authority  
Contract and Procurement Office  
1002 North School Street, Bldg. D  
Honolulu, Hawaii 96817

Telephone: (808) 832-6038

The RFQ Coordinator or his/her designated representative is listed below:

Rick Sogawa  
Hawaii Public Housing Authority  
Contract and Procurement Office  
1002 North School Street, Bldg. D  
Honolulu, Hawaii 96817

Telephone: (808) 832-6038  
Fax: (808) 832-6039

Email: [rick.t.sogawa@hawaii.gov](mailto:rick.t.sogawa@hawaii.gov)

The HPHA reserves the right to change the RFQ Coordinator without prior written notice.

The Planning and Evaluation Office is the office responsible for administering and monitoring the Contract. The designated Contract Administrator or his/her designated representative is responsible for monitoring the activities performed under the Contract and is listed as follows:

Dawn Takeuchi-Apuna  
Hawaii Public Housing Authority  
1002 North School Street  
Honolulu, Hawaii 96817

Telephone: (808) 832-4676

Any changes to the Contract Administrator or his/her designated representative shall be provided in writing to the Successful Respondent. The HPHA reserves the right to make changes to the Contract Administrator. Once the Successful Respondent has received the Notice to Proceed, all communications regarding approvals, reports, and requests will be directed to the Contract Administrator.

## V. Procurement Timeline

<u>Activity</u>	<u>Scheduled Dates</u>
Public Notice Announcing RFQ	Jan 13, 2015
Distribution of Qualifications/Submittal form	Jan 13, 2015
Pre-Submittal Conference/Site Visit	Feb 5, 2015
Notice of Intent to Respond	<b>Feb 10, 2015; 4:30pm HST</b>
Deadline to Submit Written Inquires	Feb 10, 2015
State Response to Written Inquires	Feb 19, 2015
Submittal Deadline	<b>Mar 10, 2015; 4:00pm HST</b>
Submittal Review	No later than Mar 31, 2015
Reference Checks, Due Diligence (including site visits, if necessary)	No later than Mar 31, 2015
Conduct Interviews/Best and Final Offer	Week of Apr 13, 2015
Selection of Highest Ranked Respondent	May 21, 2015

The HPHA reserves the right to amend or revise the timetable without prior written notice when it is in the best interest of the State.

## VI. Pre-Submittal Conference/Site Visit

The HPHA's Contract and Procurement Office will conduct a Pre-Submittal Conference at 9:00 a.m. Hawaii Standard Time (HST) at the HPHA's Building E Boardroom, 1002 North School Street, Honolulu, Hawaii 96817 on Thursday, February 5, 2015. The HPHA strongly recommends that all interested respondents attend. For those interested in attending via conference call, please contact the RFQ Coordinator listed above no later than 4:00 p.m. HST, Wednesday, February 4, 2015.

Impromptu questions will be permitted at the Pre-Submittal Conference and Site Visit and verbal answers provided. Verbal answers provided by the HPHA are not binding and only intended for general direction purposes. Written formal official responses to substantive questions will be provided in writing to each interested respondent as set forth in Section VII herein below no later than Thursday, 4:30 p.m. HST, February 19, 2015. Any changes required will be issued as an addendum to this RFQ.

## VII. Submission of Written Questions

Interested respondents may submit written questions to the RFQ Coordinator identified in Section 1 of this RFQ. The deadline for submission of written questions is 4:30 p.m. HST, on Tuesday, February 10, 2015. All written questions will receive a written response from the HPHA. The HPHA does not guarantee receipt of questions submitted via electronic mail. The HPHA's responses to interested respondent's written questions will be sent not later than Thursday, February 19, 2015. Written questions may be hand-delivered or submitted by facsimile, electronic mail, or U.S. postal service.

## VIII. Submission of Notice of Intent to Respond

Interested respondents shall submit a Notice of Intent to Respond no later than 4:30 p.m. HST, on Tuesday, February 10, 2015. Deliveries by private mail services, such as Federal Express, shall be considered hand deliveries. Any Notice of Intent to Respond received after the designated date and time may be rejected. The Notice of Intent to Respond of the Successful Respondent will become a part of the Agreement. Electronic mail and facsimile transmissions shall be accepted. See Appendix 1.

## IX. Submission of Sealed Submittals

1. **Forms/Formats.** Submittals must be in a form and format as prescribed in this RFQ in Section 3 – Submittal Form and Instructions.
2. **Submittal.** Submittals must be received by the date and time designated in this RFQ. Any submittal received after the designated date and time shall be rejected. **Electronic submissions such as electronic mail and facsimile transmissions shall not be accepted.**

Requests for clarification and/or best and final offer shall be submitted in a manner as requested by the HPHA in the request.

The register of submittals and submittals shall be open to public inspection after the award of the Contract. All submittals shall become the property of the HPHA. The Successful Respondent's submittal may be incorporated in the resulting Agreement by reference.

3. **Pre-opening Modification.** Submittals may be modified prior to the deadline for submittal by written notice to modify the submittal. All requests for modifications shall be sealed, accompanied by the actual modifications to the submittal and signed by an authorized representative.

The written request must be submitted to the HPHA, Contract and Procurement Office, 1002 North School Street, Bldg. D, Honolulu, Hawaii 96817 and time stamped by the HPHA. Modifications shall be clearly marked and must be received by the HPHA not later than 4:00 p.m. HST on Tuesday, March 10, 2015.

4. **Confidential Information.** If an interested respondent believes that any portion of a submittal contains information that should be withheld as confidential, the **interested respondent shall request in writing nondisclosure of designated proprietary information to be** confidential and provide justification to support the designation of confidentiality. Such information shall accompany the submittal, be clearly marked, and shall be readily separable from the submittal documents to facilitate eventual

public inspection of the non-confidential sections of the submittal documents. Note that upon award **the provision of the minimum required services, including illustrations and renderings are not considered confidential and will not be withheld to the public and/or respondents to this solicitation.**

Interested respondents that choose to identify portions of their submittal as confidential shall be responsible to ensure that the minimum services are not included. The HPHA will not make any determination of confidentiality for the interested respondent.

If a submittal is marked confidential in its entirety, the HPHA will not make a determination of confidentiality and will refer the request for information to the State's Office of Information Practices.

5. Information shall be made confidential as permitted by law.
6. Submissions shall be made to the following address:

**Hawaii Public Housing Authority  
1002 N. School Street  
Building D  
Honolulu, HI 96817  
Attn: Mr. Rick Sogawa, Procurement Officer**

#### **X. Discussion with Respondents Prior to Submission**

Discussions may be conducted with interested respondents to promote understanding of the HPHA's requirements. Respondents may not contact any HPHA Board of Directors, staff and/or its consultant.

#### **XI. Opening of Submittals**

Upon receipt of submittals by the HPHA at the designated location, submittals, modifications to submittals, and withdrawals of submittals shall be date- and time-stamped. All documents so received shall be held in a secure place by the HPHA and shall not be examined for evaluation purposes until the submittal deadline. Procurement files, to include the submittals, illustrations and renderings shall be open to public inspection after a contract has been awarded and executed by all parties. Sealed submittals shall not be opened at a public submittal opening.

#### **XII. Additional Materials and Documentation**

Submittal samples or descriptive literature should not be submitted unless specifically requested within the RFQ. Any unsolicited documentation, literature,

samples, or brochures will not be examined or tested, and will not be deemed to vary any of the provisions of this RFQ.

### **XIII. RFQ Amendments**

The HPHA reserves the right to amend this RFQ at any time prior to the closing date for the final revised submittals. Interested respondents will be notified of the availability of amendments through written communication.

### **XIV. Additional Terms and Conditions**

The HPHA reserves the right to add terms and conditions during contract negotiations and discussions. These terms and conditions may be within the scope of the RFQ and will not affect the submittal evaluation.

### **XV. Cancellation of the Request for Qualifications**

The RFQ may be canceled and any or all submittals may be rejected in whole or in part, when determined by the HPHA to be in the best interests of the State.

### **XVI. Costs for Submittal Preparation and Verification**

Any costs incurred by interested respondents in preparing or submitting a submittal are the interested respondent's sole responsibility. Any costs incurred by the Successful Respondent prior to the execution of a Contract are not eligible for reimbursement.

Costs incurred in connection with the review, inspection and verification of information provided in the RFQ shall be the interested respondent's sole responsibility.

**Interested respondents shall ensure that the HPHA is provided with the written authorization(s) necessary to verify information provided in the interested respondent's submittal.**

### **XVII. Mistakes in Submittals**

While interested respondents are bound by their submittal, circumstances may arise where a correction or withdrawal of submittal is proper. An obvious mistake in a submittal may be corrected or withdrawn, or waived by the HPHA to the extent that it is not contrary to the best interest of the HPHA or to the fair treatment of other interested respondents. Mistakes in submittals shall be handled as provided for pursuant to HUD requirements at HUD Handbook 7460.8 REV 2.

## **XVIII. Rejection of Submittals**

The HPHA reserves the right to consider as acceptable only those submittals received in accordance with the requirements set forth in this RFQ and which demonstrate an understanding of the specifications. Any submittal offering may be rejected without further notice if it is determined to offer a set of terms or conditions that are contradictory to the minimum requirements included in this RFQ. The HPHA reserves the right to reject any and all submittals and to accept the submittals in whole or part in the best interest of the State.

## **XIX. Withdrawal of Submittals**

Submittals may be withdrawn upon written or facsimile request and should be received prior to 4:00 p.m. HST, Tuesday, March 10, 2015. Late request for withdrawal may not be accepted. Negligence on the part of the interested respondent in preparing its submittal confers no right of withdrawal or modification of its submittal after the due date and time.

## **XX. Best Available Data**

All information contained in this RFQ is the best data available to the HPHA at the time the RFQ was prepared. The information given in the RFQ is not intended as representations having binding legal effect. This information is furnished for the convenience of respondents and the HPHA assumes no liability for any errors or omissions.

## **XXI. Notice of Award**

The Successful Respondent shall receive a Notice of Award, which will indicate that the Successful Respondent has been selected to provide the services under this RFQ.

No work is to be undertaken by the Successful Respondent prior to the Contract commencement date. The HPHA is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the Successful Respondent prior to the Contract starting date.

The Successful Respondent receiving an award shall be required to enter into a formal written Agreement.

## **XXII. Protests**

An actual or prospective respondent who is aggrieved in connection with the solicitation or award of a contract may submit a protest. An actual or prospective respondent may protest the solicitation or award of services only for a serious violation of procurement policies and operational procedures.

The Notice of Protest shall be mailed by USPS or hand delivered to the head of the State Contracting Office conducting the protested procurement and the Procurement Officer who is conducting the procurement, as indicated below, within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) days after the posting of award of the contract. Delivery services other than USPS shall be considered hand deliveries and considered submitted on the date of actual receipt by the State Contracting Office. Any notice of award letter(s), resulting from this solicitation shall be posted on the Procurement Reporting System on the State Procurement Office website at <http://www.hawaii.gov/spo2/source/>.

<b>Head of State Contracting Office</b>		<b>Procurement Officer</b>	
Name:	Hakim Ouansafi	Name:	Rick T. Sogawa
Title:	Executive Director	Title:	Procurement Officer
Mailing Address:	P.O. Box 17907 Honolulu, Hawaii 96817	Mailing Address:	P.O. Box 17907 Honolulu, Hawaii 96817
Business Address:	1002 N. School St, Bldg. E Honolulu, Hawaii 96817	Business Address:	1002 N. School St, Bldg. D Honolulu, Hawaii 96817

### **XXIII. Availability of Funds**

The award of a Contract and any allowed renewal or extension thereof, are subject to allotments made by the Director of Finance, State of Hawaii, pursuant to Chapter 37, HRS, and subject to the availability and allotment of State and/or Federal funds.

### **XXIV. Monitoring and Evaluation**

The Successful Respondent's performance under the Contract will be monitored and evaluated by the Contract Administrator or his/her designated representative, the HPHA's auditors, and/or other designated representatives.

Failure to comply with all material terms of the Contract may be cause for suspension or termination, as provided in the General Conditions. The Successful Respondent may be required to submit additional written reports, including a corrective action plan, in response to monitoring conducted by the HPHA. These additional reports shall not be considered a change to the scope of work and shall continue for a duration of time as deemed necessary by the HPHA.

### **XXV. Campaign Contributions by State and County Contractors Prohibited**

If awarded a Contract in response to this solicitation, the Successful Respondent agrees to comply with §11-355, HRS, which states that campaign contributions

are prohibited from a State and county government contractor during the term of the Contract if the Contractor is paid with funds appropriated by the legislative body between the execution of the Contract through the completion of the Contract.

(END OF SECTION)

**Section 2**  
**Scope of Services**

**I. GENERAL REQUIREMENTS**

**A. Qualifying Requirements**

1. The Successful Respondent must have no outstanding balances owing to the HPHA. Exceptions may be granted by the Executive Director of the HPHA for debts recently acquired and for debts which have a repayment plan approved by the Executive Director of the HPHA.
2. Interested respondents are advised that if awarded a Contract, the Successful Respondent must furnish proof of compliance with the following requirements:
  - a. Chapter 237, HRS, tax clearance;
  - b. Chapter 383, HRS, unemployment insurance;
  - c. Chapter 386, HRS, workers' compensation;
  - d. Chapter 392, HRS, temporary disability insurance;
  - e. Chapter 393, HRS, prepaid health care; and
  - f. One of the following:

- i. Be registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business").

**Hawaii business.** A business entity referred to as a "Hawaii business" is registered and incorporated or organized under the laws of the State of Hawaii. As evidence of compliance, the interested respondent shall submit a CERTIFICATE OF GOOD STANDING issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG). A Hawaii business doing business as a sole proprietorship is not required to register with the BREG, and therefore not required to submit the certificate. A Successful Respondent's status as sole proprietor or other business entity and its business street address will be used to confirm that the Successful Respondent is a Hawaii business.

- ii. Be registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

**Compliant non-Hawaii business.** A business entity referred to as a "compliant non-Hawaii business," is not incorporated or organized under the laws of the State of Hawaii, but is

registered to do business in the State. As evidence of compliance, the interested respondent shall submit a *CERTIFICATE OF GOOD STANDING*.

**4. Business Office**

The Successful Respondent shall have, at a minimum, a telephone number and electronic mail address from which it conducts business and is accessible by telephone from 7:45 a.m. to 4:30 p.m. HST for meetings, teleconferences, video conferences, concerns or requests that need immediate attention. An answering service is not acceptable. An office location, phone number and electronic mail address shall be stated in the interested respondent's submittal.

**5. Certifications of Eligibility**

The Successful Respondent shall demonstrate compliance with the following:

- a. Tax Clearance, Form A-6;
- b. Department of Labor and Industrial Relations, Application for Certificate of Compliance, Form LIR #27; and
- c. Certificate of Good Standing issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG).

The Successful Respondent may demonstrate compliance of the above by using the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at:

<http://vendors.ehawaii.gov/hce/splash/welcome.html>

The HCE provides the applicant with a "Certificate of Vendor Compliance" with current compliance status as of the issuance date, accepted for both contracting purposes and final payment. Businesses that elect to use the new HCE services will be required to pay any annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC).

Prior to execution of the Master Planning Agreement, the Successful Respondent shall certify that joint ventures, partnerships, team agreements, new corporations or other entities that either exist or will be formally structured are, or will be legal and binding under Hawaii law.

## 6. Laws, Rules, Ordinances and Regulations

The selected Respondent shall comply with all local, state and federal laws and regulations in performance of services pursuant to this solicitation, including but not limited to:

- a. **Uniform Administration Requirements** contained in 24 CFR 85.1 et seq., as amended;
- b. **Executive Order 11246** of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR 60) (*all construction contracts in excess of \$10,000*);
- c. **Sections 103 and 107 of the Contract Work Hours and Safety Standards Act** (40 U.S.C. 327-330) as supplemented by department of Labor regulations (29 CFR Part 5). (*Construction contracts in excess of \$2,000, and in excess of \$2,500 for other contracts that involve the employment of mechanics and laborers*);
- d. **All applicable standards, orders and requirements issued under Section 306 of the Clear Air Act** (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR Part 15). (Contracts, subcontracts, and subgrants in excess of \$100,000);
- e. **Copeland "Anti-Kickback" Act** (18 U.S.C. 8754) as supplemented in Department of Labor regulations (29 CFR Part 3). (*All contracts and subgrants for construction or repairs*);
- f. **The Americans with Disability Act of 1990 (H.R. 2273, 8.933)**; Sections 501 and 504 of the Rehabilitation Act of 1973, as amended; the Architectural Barriers' implementing regulations (24 CFR 40). (*All construction contracts*); and
- g. HUD's **Section 3 regulations** as found in the Code of Federal Regulations, at 24 CFR Part 135 - Code of Federal Regulations site.

## 7. Conflict of Interest

By responding to this RFQ with a submission, the interested respondent warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, it does not have any organizational conflict of

interest. Conflict of interest is understood as a situation in which the nature of the work under this solicitation and the organizational, contractual and financial interest of the interested respondent are such that:

- a. The interested respondent may have an unfair advantage; or
- b. The interested respondent's objectivity in performing work pursuant to this RFQ may be compromised.

Interested respondents should note that a conflict of interest arises if an employee, officer or agent of HPHA, a member of his/her immediate family, his/her partner, or an organization that employs or is about to employ any of the above (the employee/officer/agent, his or her immediate family or partner) has financial or other interest in the interested respondent.

**8. Bonds**

No performance or payment bond is required.

**B. Single or multiple contracts to be awarded**

Single                       Multiple                       Single and/or Multiple

**C. Termination**

The HPHA reserves the right to terminate any Contract without penalty for cause or convenience.

**II. GENERAL BACKGROUND INFORMATION**

**A. Background**

The Hawaii Public Housing Authority (HPHA) is seeking to partner with an experienced developer (Master Developer) to redevelop the property where the HPHA's Administrative Offices are currently located to creatively redevelop the property to include a mixed-income, mixed use development that includes new Administrative Offices, innovative public housing units, and possibly commercial uses. The Successful Respondent will prove through its submittal that it possesses the qualifications necessary to implement a comprehensive revitalization strategy for the property in a manner that catalyzes public and private investment in and around the site. The Successful Respondent will demonstrate its success in implementing similar type projects, experience with development in the area, evidence of quality performance on-time and on-budget, and organizational capacity and time commitments of personnel. The plan to be considered must be neighborhood focused and include redevelopment of the HPHA's Administrative Offices as well as the innovative, sustainable, and

low-impact development of additional public housing units, under the Faircloth rule, which may or may not be integrated into a mixed income, mixed use development plan.

During the development of the master plan, the Master Developer will be expected to work with the HPHA in creating a space program for the HPHA's Administrative Offices and provide preliminary designs for the development of additional public housing units; identify other investments essential to creating a sustainable and healthy community; coordinate housing activities with resident services/programs; and assist with securing state, local, other federal, and private funding.

The Master Developer must be able to work collaboratively with the HPHA, its partners, and the broader community. The Master Developer will be responsible for developing the office and housing program, preferably a mixed income, mixed use higher density program combining the two and for implementing the redevelopment plan once financing is secured.

#### **B. Hawaii Public Housing Authority (HPHA)**

The Hawaii Public Housing Authority (HPHA) is the sole statewide public housing agency in the State of Hawaii, and was established by the Territory of Hawaii in 1935 to provide safe, decent, and sanitary housing for low-income residents. Guided by an eleven member Board of Directors that are appointed by the Governor of Hawaii, today the HPHA Federal and State Low-Income Public Housing and rental assistance programs combine to serve over 7,300 families or more than 23,000 individuals.

#### **C. HPHA Administrative Offices (1002 North School Street)**

The intent of the redevelopment of the HPHA's Administrative Offices located at 1002 North School Street site is to revitalize, modernize and improve the quality of the work environment for HPHA's staff, bring additional public housing units to a portion of the site, and make the best use out of the existing land to encourage a sense of community with the surrounding neighborhood. Proposed redevelopment shall introduce creative physical designs, building and unit configurations and sustainable building materials that innovatively maximize the use of space and can be a model for the future.

The HPHA's Administrative Offices site consists of approximately 6.0 acres of state-owned land and identified as Tax Map Key: (1) 1-6-009:003. There are currently 13 administrative buildings on the site with approximately 196 employees and parking.

A site map of the property is provided under Appendix 2.

### **III. SCOPE OF SERVICES**

#### **A. Summary of Services**

The HPHA is soliciting qualification statements and proposed business terms from experienced Master Developers with a documented track record of providing the required services. The HPHA is requiring that each interested respondent submit a vision that describes the type of development the interested respondent believes is feasible to provide new Administrative Offices for the HPHA as well as to transform the larger neighborhood and provide new public housing units in an innovative design and construction manner. In addition, the submittal must demonstrate the interested respondent's capacity and readiness to perform the required Scope of Services expeditiously. Finally, the submittal must include evidence of the interested respondent's previous experience and qualifications relative to the provision of such services. The HPHA is looking for creativity in approach, particularly for the housing units, such as micro units, re-use of containers, modular, pre-fabrication, etc. See Appendix 3 for Hawaii Appleseed Center for Law and Economic Justice Policy Report: Innovative and Affordable Models to Meet our Housing Needs.

The selected Master Developer will be responsible for working closely with the HPHA and the community to develop a holistic and sustainable plan for the redevelopment of the HPHA's Administrative Offices site. The Master Planning Agreement between the selected respondent and the HPHA will be subject to the terms and conditions provided in HUD Form 5370-C, General Conditions Non-Construction.

Once selected, the Master Developer will guide development of an office and housing program; develop preliminary design alternatives for community review; prepare development and operating proformas; and identify funding commitments in support of implementing the plan. A Master Planning Agreement will be negotiated with the HPHA to detail the Master Developer's role and responsibilities in development of the master plan.

For implementation services, a Master Development Agreement (MDA) will be negotiated that delineates the roles and responsibilities of the HPHA and the Master Developer as well as the fee structure. When implementation financing is secured, the Master Developer will be responsible for all predevelopment activities, financial closing, construction, lease-up and property management as detailed in the MDA.

#### **B. Program Requirements**

Respondents to this RFQ are strongly encouraged to examine the proposed Program parameters outlined below and to reply with submittals that are responsive to HPHA priorities, the market and the environment, and provide for

the successful redevelopment of the HPHA's Administrative Offices. The master plan to be developed in consultation with the procured Master Developer partner shall be consistent with the following minimum program requirements (the "Program"):

- i. Develop New Low Income Public Housing Units. The HPHA currently has some federal low income public housing units of subsidy available under the Faircloth rule and sees the HPHA's Administrative Offices site as an opportunity to develop creative, low impact, sustainable, deeply subsidized units (i.e., residents pay no more than 30% of income for rent). These units may be able to convert from public housing to project-based rental assistance demonstration (RAD) units after development, subject to HPHA approval and lifting of the RAD cap in Congress. The HPHA has attached in Appendix 4 its public housing waiting list by bedroom size to provide context for the unit mix based on current household need. Please note that there is a possibility that no federal low income public housing subsidy under the HPHA's Annual Contributions Contract will be available.
- ii. Design of Public Housing Units. The design of the public housing units should take into consideration innovative and non-traditional design that maximize space and resources for greater utility such as the use of micro-housing, prefabrication, and/or container units, which are cost-effective, sustainable, and replicable in an extremely high-cost environment.
- iii. Mixed-income development. The deeply subsidized replacement units may include a mixture of deeply subsidized, tax credit and market rate rental units as determined to be viable and advantageous to the overall development effort.
- iv. High quality design. Create a sustainable new community of high quality design that meets or exceeds industry standards and incorporates state-of-the-art energy conservation and green practices in a LEED-certifiable project.
- v. Leverage resources. Pursue funding sources appropriate for the redevelopment program and maximize private funding to minimize the need for public resources. Work collaboratively with local, state and federal agencies, for-profit organizations, non-profit organizations, etc. to identify a variety of resources to support the redevelopment effort, including but not limited to federal and state tax credits, HUD's Community Development Block Grant (CDBG) program, HOME Investment Partnerships Program (HOME) funds, Rental Assistance Demonstration program (RAD), Section 108 Loan Guarantee program, U.S. Dept. of Treasury's New Markets Tax Credit program (NMTC), Hawaii Housing Finance Development Corporation (HHFDC) Rental Housing Trust Fund, Hula Mae Bond Program, private mortgages, deferred developer fee,

Federal Home Loan Bank's Affordable Housing Program (FHLB AHP), corporate/foundation grants, non-profit organizations, etc. Please note that a non-profit organization related to the HPHA will be established in the near future and may be considered as a partner.

- vi. Neighborhood integration. Create a diverse new community that is incorporated into the surrounding neighborhood, strengthens the economic vitality of the area and supports the functions of daily life.
- vii. Develop New Administrative Offices for the HPHA. The HPHA desires a new, modern central office in which to operate its federal and state low-income public housing and rental subsidy administrative programs. The office space needs to be able to accommodate the current staff of approximately 200 employees and current space requirements of approximately 30,000 square feet. The HPHA office space will house the Office of the Executive Director, Planning and Evaluation Office, Compliance Office, Property Management and Maintenance Services Branch, Applications Section, Section 8 Subsidy Programs Branch, Information Technology Office, Construction Management Branch, Contract and Procurement Office, Central Files, Central Maintenance, Personnel Office, Financial Management Office, Board Room, Conference Room, Lunch Room Facility, Computer Server Room, Warehouse for Central Storage, and Maintenance Yard.

#### **IV. ROLE OF THE HAWAII PUBLIC HOUSING AUTHORITY (HPHA)**

The HPHA will play the following roles in the planning and redevelopment of the Project:

- A. HUD and State Contact – The HPHA, in collaboration with the Master Developer, shall submit all communication with HUD and the State, the preparation and submission of program documents and evidentiaries, and obtain all required approvals from each agency. However, to the extent any such documents or evidentiaries are within the particular knowledge or responsibility of the Master Developer, the HPHA will expect the Master Developer to prepare or assist in preparing such documents and evidentiaries as the HPHA may direct.
- B. Provider of Capital Funds – The HPHA may loan, grant, or otherwise make available to the Master Developer federal or state funding specifically targeted for the replacement of the Administrative Offices or development of public housing units in an amount to be negotiated based upon the Master Developer's ability to demonstrate such need and in accordance with HUD's Cost Containment and Safe Harbor Guidelines. The HPHA currently has some funds set aside for development of its Administrative Offices. The Master Developer, in consultation with the HPHA, will be required to achieve the

maximum leverage of public resources, including land, by securing private, other federal, City and State funding and to secure all funding for non-public housing units.

- C. Provider of Operating Subsidies – If the newly developed public housing units remain public housing, the HPHA will contribute a portion of its federal operating subsidy toward the cost of operating these units. The HPHA will negotiate, in good faith, a portion of its annual operating subsidy (ACC) per occupied unit, while retaining a portion for its monitoring and asset management functions. The provision of the operating subsidies will be contained in a Regulatory and Operating Agreement, the terms of which will be negotiated between HPHA and the selected Master Developer and approved by HUD. Use of public housing funds for development and operations comes with federal restrictions. Units developed with public housing funds must serve as public housing for a minimum of 40 years. Units receiving operating subsidy must be operated as public housing for 10 years after cessation of the subsidy. The Master Developer is responsible for knowing the restrictions that will apply and understanding how they may affect the project. The HPHA may also participate in HUD's RAD program, if available, to provide long-term project-based assistance.

The HPHA may also entertain entering into a long-term lease agreement for the use of the newly developed Administrative Offices in order to partially finance the development of this portion of the program.

- D. Relocation – The Master Developer, in consultation with the HPHA, will be responsible for analyzing how the HPHA can maintain administrative office duties during the redevelopment period and implement the relocation effort.
- E. Admissions – Households will be taken off of the HPHA's waiting list to qualify for the new public housing units based on occupancy standards per the HPHA's current lease and criteria in HPHA's Admissions and Continued Occupancy Policy (ACOP). No additional screening criteria will be imposed.
- F. Property Management – The HPHA is interested in playing a role in property management – subject to investor approval – and the Master Developer respondent must provide a description of how the HPHA, and/or its current staff, might participate in and/or develop experience managing mixed-income and tax credit communities over time.
- G. Land Owner – It is the HPHA's intent to enter into long-term ground leases with the Owner Entity of the new development(s). As noted above, the HPHA may consider leasing back the improvements consisting of the Administrative Offices. The Master Developer shall develop the deeply subsidized units in a manner which will qualify them for a Payment in Lieu of Taxes ("PILOT") and any related Cooperation Agreements with the City and County of Honolulu as authorized by law if the HPHA determines it will be in the best interest of the development.

- H. Asset Manager – The HPHA will continue to have asset management responsibilities related to the public housing units. The HPHA will monitor and enforce the terms of the Lease(s) and the Regulatory and Operating Agreements with the Master Developer, if that is the structure, and require that all housing units be managed in accordance with applicable local, state and federal requirements.
- I. Monitor Master Developer Compliance with Hiring Opportunities – The Master Developer will develop plans and efforts for reaching Section 3, Minority Business Enterprises (MBE), and Women-owned Businesses (WBE) goals and objectives. The HPHA will monitor the Master Developer's efforts. Section 3 requirements include not only resident employment but also contracting with Section 3 business entities. In addition, the HPHA desires that the Master Developer will work to ensure that neighborhood residents and businesses have opportunities to participate in the development process through Community Work Agreements to the extent possible and will facilitate partnerships with community based pre-apprenticeship and small business development programs where possible.

## V. **Role of Master Developer**

Throughout the redevelopment of the Project, the Master Developer will work closely with the HPHA staff, the residents, the HPHA's consultants, and the City and County of Honolulu. The Master Developer will be responsible for ensuring that the redevelopment master plan is financed and implemented. The master plan must create the blueprint for a successful, stable, diverse, safe, attractive and sustainable community.

### A. **General:**

- i. Oversee and Implement the Redevelopment – Provide the necessary staffing, expertise, supervision and guarantees to implement all aspects of the redevelopment fully and expeditiously as required by the Master Development Agreement.
- ii. Hire and Manage Consultants and Contractors Necessary to Implement the Project – Procure other consultants and/or contractors and coordinate all tasks necessary to implement the redevelopment. At a minimum the Master Developer's team will need to include consultants appropriate to cover the architectural, environmental review, market analysis, geo-technical studies, civil, mechanical and electrical engineering, and any other activities deemed necessary by the Master Developer. Respondents are strongly encouraged to demonstrate participation on their team of expertise in areas of relevance to the locale's development process, including NMTC and LIHTC financing and construction matters, and experience with building on the island of Oahu.

- iii. Maintain Communication Regarding Project Progress with the HPHA, HUD and the Residents – The HPHA will establish a regular schedule of team meetings, in which the Master Developer will be required to participate. Moreover, the Master Developer will be responsible for submitting monthly progress reports on the project status and schedule, including but not limited to design, permits, financing, resident coordination, etc. and any inquiries/clarifications from the HPHA. The related format and media form of such reports will be defined in the Master Development Agreement.
- iv. Develop Relocation Plan for Administrative Offices – Be responsible for developing a relocation plan for the Administrative Offices in consultation with the HPHA during the redevelopment construction that minimizes work stoppage.
- v. Develop and Maintain Quality Control Measures – Be responsible for ensuring the Project is constructed and managed with the highest quality materials and workmanship. The Master Developer will be required to implement quality assurance and control measures to ensure effective performance by all parties in all aspects of the program.
- vi. Develop and Maintain a Detailed Development Schedule and Critical Path Schedule – Develop and maintain a detailed schedule of events, predicated on financing deadlines, that includes pre-development activities, construction start, project stabilization and permanent loan close. Develop a Critical Path Schedule for all phases of construction (offices and housing), and lease-up and stabilization.
- vii. Foster HPHA Staff Involvement in Project Implementation – Facilitate and foster the involvement of staff in the implementation of the redevelopment effort.
- viii. Community Facilities – Tasked with the construction of any community facilities that are included in the development program.
- ix. Supportive Services – At the discretion of the HPHA, be responsible for designing and implementing a Community and Supportive Services Plan.
- x. Be Responsive to Local Community, Neighborhood, and City Interests – Promote and maintain good relations with community and neighborhood groups, and federal, state and local governments.
- xi. Compliance with Laws – Comply with all applicable federal, state and local laws, rules and regulations applying to the activities required by the Master Planning Agreement.

- xii. Debarment – Provide evidence that neither it nor any subcontractor is debarred, suspended or otherwise prohibited from professional practice by any federal, state or local agency.
- xiii. MBE/WBE/Section 3 Contracting Opportunities – Develop a strategy in coordination with the HPHA for fostering MBE/WBE and Section 3 employment, training and contracting opportunities throughout the redevelopment process.

## **B. Pre-Development**

- i. Prepare a Market Analysis Addressing Both the Residential and Non-Residential Components of the Plan – In order to finalize the overall development program, prepare a market analysis that will, based on area economics, assist in determining the proper mix of office space and confirm that any proposed rents are supportable in the local market.
- ii. Master Planning / Design Development Process – During the master planning and schematic design and design development phases, meet regularly with the HPHA, its staff, and the neighboring community and the City and County of Honolulu, as requested, to review all aspects of the design. Activities include but are not limited to securing 3<sup>rd</sup>-party reports (environmental, title, infrastructure studies, geotech, etc.), permits and approvals, entitlements, survey and engineering, etc. The Master Developer will also be required to create, with the HPHA, a space program for the new Administrative offices, detailing anticipated uses, adjacencies and space requirements, which will be the basis for starting schematic design.
- iii. Obtain Environmental Clearances – Procure the necessary consultants and prepare the necessary documents to obtain environmental clearances from all interested agencies.
- iv. Demolition and Remediation – Assume responsibility for the demolition and remediation of the existing Administrative Office buildings.
- v. Plans and Specifications – Be responsible for the preparation of the infrastructure and building plans and specifications which will be subject to the HPHA and City and County of Honolulu review.

## **C. Financing**

- i. Produce an Overall Financing Plan – Produce an attainable financing plan for the master plan. The financing plan must demonstrate a sensitivity and approach in using public funds and resources in the most efficient manner, maximizing leveraging to the greatest extent possible.

- ii. Prepare the HUD Term Sheets – Provide required information for the preparation of any traditional Development Proposals or Mixed-Finance Proposals (MFP) for HUD review and approval. Prepare the evidentiary documents for which it is responsible.
- iii. Financing Application(s) – In accordance with the Master Planning Agreement, the Master Developer will be required to pursue diligently and use best efforts to obtain all financing necessary to implement the master plan in a timely fashion, which may include, but not be limited to, tax credits, tax-exempt bonds, state and local funds, private grants and conventional debt. In particular, the HPHA is interested in exploring the use of New Markets Tax Credit (NMTC) as a financing source for the Administrative Office project.
- iv. Maximize the Leveraging of Public and Private Resources – Maximize the leveraging of public and private resources by pursuing all reasonable sources of financing and utilizing a variety of partners and partnerships. Take full responsibility for securing all financing sources in a timely fashion. Coordinate discussion and negotiations with financial institutions and private partners. All financing terms are subject to review and approval by the HPHA.
- v. Obtain Equity Investment – Using an approved competitive process, obtain equity financing commitment on the best terms currently available.
- vi. Guarantees – Provide all guarantees required for the successful financing of the Project, including completion guarantees, operating deficit guarantees, and tax credit adjuster or recapture guarantees and guarantees of performance under the Master Planning Agreement. The Master Developer will be required to demonstrate financial capacity to provide the guarantees, and indicate how they intend to honor the guarantees if necessary.
- vii. Operating Feasibility – Structure such reserves and other devices as will reasonably guarantee the long-term operating feasibility of the Project, utilizing no more subsidy than is made available or committed by the HPHA.
- viii. Accounting/Financing – Maintain accounting records and ensure Project financing is available at the appropriate times and utilized in the appropriate manner.

#### **D. Construction**

- i. Hire Qualified Licensed General & Sub-Contractors and Oversee Construction Activities – As to be provided for in the Master Development Agreement (MDA), create and implement a process for selecting the most qualified contractor. During construction, the Master Developer shall provide oversight, and management as deemed necessary, of construction activities by coordinating with all development team members and attending job-site

meetings to ensure the expeditious implementation of construction activities.

- ii. Facilitate Necessary Site Improvements – Pursuant to the MDA, initiate and complete site work and infrastructure construction.
- iii. Implement Development Program – In accordance with the MDA and the final master plan approved by the HPHA, develop all improvements associated with the development program, including residential units, community facilities and any commercial space.

#### **E. Ownership and Asset Management**

- i. Organize Ownership Entity – Organize ownership entities and structures approved by the HPHA, for both the residential and non-residential components. This may include affiliates of the HPHA as special limited partners.
- ii. Ensure the Short- and Long-Term Viability of the Redeveloped Projects – Develop and implement marketing, re-occupancy, asset and property management plans that will ensure the short- and long-term viability of the Project. This may include the participation of the HPHA or an affiliate as eventual property management firm, subject to investor and lender approval. The HPHA will also seek the right of first refusal using the minimum purchase price permitted under federal tax law at the end of the initial tax credit compliance period.
- iii. Market and Lease-up of Rental Units – Create and implement a marketing and lease-up strategy for the rental units to ensure that stabilized occupancy is achieved in compliance with all applicable financing and land use agreements and HUD requirements.

(END OF SECTION)

## Section 3 Submittal Forms and Instructions

### I. General Instructions

When an interested respondent submits a submittal, it shall be considered a complete plan for accomplishing the tasks identified in this RFQ. The interested respondent's submittal must demonstrate an understanding of and the ability to meet and perform all contractual requirements listed in this RFQ.

All interested respondents shall ensure compliance with all requirements of their submittal. Failure to comply with any of the requirements may result in automatic disqualification of the respondent.

The submission of a submittal shall constitute the interested respondent's indisputable representation of compliance with every requirement of the RFQ, and that the RFQ documents are sufficient in scope and detail to indicate and convey a reasonable understanding of all terms and conditions of performance of the work to interested respondent.

An interested respondent shall submit **one (1) original submittal marked "ORIGINAL", nine (9) copies of the original marked "COPY" and one (1) electronic copy in PDF format submitted on disk or flash drive.** It is imperative to note that the interested respondent submit only one (1) original and the required number of copies.

Any and all corrections to a submittal shall be initialed in ink by the person signing the submittal for the interested respondent. Any illegible or otherwise unrecognizable corrections or initials may cause rejection of the submittal.

Submittal shall be submitted to the HPHA in the prescribed format outlined in this RFQ. A written response is required for each item, unless indicated otherwise.

No supplemental literature, brochures or other unsolicited information should be included in the proposal packet.

### II. Submittal Forms

- A. The submittal forms must be completed and submitted to the HPHA by the required due date and time, and in the form prescribed by the HPHA. Electronic mail and facsimile transmissions shall not be accepted.
- B. Interested respondents shall submit its submittal under the interested respondent's exact legal name that is registered with the State of Hawaii's Department of Commerce and Consumer Affairs and shall indicate this

exact legal name. Failure to do so may delay proper execution of the Contract.

- C. Interested respondent's authorized signature shall be an original signature in ink. If the submittal is unsigned or the affixed signature is a facsimile or a photocopy, the submittal shall be automatically rejected. If the submittal is not signed by an authorized representative as detailed in the corporate resolution, the submittal shall be automatically rejected.
- D. A submittal security deposit is not required for this RFQ.
- F. The numerical outline for the submittal, the titles/subtitles, and the interested respondent's organization and RFQ identification information on the top right hand corner of each page should be included.
- G. Consecutive page numbering of the Submittal should begin with page one and end with the last numbered page of the complete submittal.
- H. Submittals must be submitted on white, 8 ½" x 11" paper and shall be bound such as a three ring binder. Tabbing of sections is required. 11" x 17" inserts folded to 8 ½" x 11" size will be allowed as part of the submittal.
- I. Place the following information in the upper, left-hand corner on the outside of the envelope when submitting qualifications:

Respondent Name  
Respondent Address  
Respondent Contact Number  
RFQ No. and Title  
Date and Time responses are due

### **III. Submittal Application:**

#### **A. Outline**

Listed below are the sections that must be included in the written submittal. Each section must be clearly labeled using the bold-faced titles listed below, and shall be assembled in the order described herein. The required submission must be bound and each section tabbed.

Interested respondents must compile responses using the following outline:

1. Letter of Interest
2. Team Description
3. Profile of the Master Developer

4. Profiles of the Development Team Members
5. Technical Response
  - 5.1 Vision for the Site and Neighborhood
  - 5.2 Financing Approach
  - 5.3 Business Terms
6. Community Participation
7. MBE/WBE/Section 3 Participation Plan
8. Required Certifications

## **B. Description of the Submission Requirements**

The following provides guidance on what the qualifications-based submittal must contain and how it must be organized. The purpose of this information is to establish the requirements, order and format for responses, and to ensure that the proposals are complete, include essential information and can be fairly evaluated. Interested respondents are requested to avoid duplicative materials and redundancies in their submittal.

## **C. Transmittal Letter of Interest**

A transmittal cover letter of interest shall be included and must list the development team members and identify the primary contact person. Please include phone number, facsimile number and e-mail address. The transmittal letter must be signed by an authorized principal of the interested respondent's firm and include:

- i. A statement indicating that the interested respondent is a corporation or other legal entity and the taxpayer identification number of the legal entity.
- ii. A statement that the interested respondent is or will be registered to do business in Hawaii and is or will obtain a State General Excise Tax License before the start of the work.
- iii. A statement that the submittal will remain valid for not less than 180 days from the date of the HPHA's Board of Directors approval of the Master Developer.

## **D. Team Description**

Provide information on the Master Developer and the development team, including the following:

- i. Contact person, title, telephone/facsimile numbers and e-mail address.

- ii. Name of Master Developer, main address, telephone/facsimile numbers and e-mail address.
- iii. Address, phone and facsimile numbers of office from which services will be provided, if different from above.
- iv. Description of the firm size, number of employees, and a description of type, location, scheduled completion and dollar value of the projects in the pipeline.
- v. Proposed role of Master Developer within development team.
- vi. Identify the individual who will serve as project manager for the development team and who will direct and coordinate the development effort through completion. Describe the project manager's prior experience with projects of similar scope and size, with particular emphasis on experience directing a multi-disciplinary team and facilitating a community involvement process.
- vii. Provide an organization chart of the development team. All entities that comprise the team must be identified including consultants, contractors, and attorneys, indicating their specialization(s), specific contribution to the team, and whether they are an M/WBE/Section 3 business. Please provide information on the development team's prior experience working together.
- viii. Provide examples of the team's prior experience in the planning and construction of mixed-income, mixed-finance and mixed-use housing development projects of comparable size and complexity in urban areas within the past five (5) years. Also discuss the team's experience in obtaining, structuring, and implementing layered financing for such projects, including 4% and 9% tax credits and other sources of financing, particularly in Hawaii.
- ix. Provide examples of the team's experience developing commercial office space and with public housing requirements, including the rule and requirements applicable to mixed-finance development using public housing capital funds, and public housing operations.
- x. Provide a narrative description of the team's previous experience in integrating community and supportive services into the overall development and maintenance of similar projects.
- xi. Provide a narrative description of the team's previous experience in successfully utilizing M/WBE/Section 3 businesses and achieving goals for utilization.

- xii. Indicate whether the Master Developer or any team member has ever been terminated from a contract, and if so, describe the circumstances and outcome.
- xiii. Indicate whether the Master Developer or any team member has ever sued or been sued by a Housing Authority, and if so, describe the circumstances and the outcome.

#### E. Profile of the Master Developer

Provide an overview of the Master Developer's experience in the planning, construction and management of projects similar to what is proposed. Include the following information for the last five (5) years. Projects must be listed in chronological order:

- i. List all **commercial office and affordable and mixed-income rental housing projects** (preferably involving public housing units) successfully completed within the past five (5) years, identifying the states where the projects are located, sources of financing including the size of the tax credit allocations and tax-exempt bond allocations received, the name of the investor(s) and dollar amount the investor(s) paid for the tax credits (expressed in cents per tax credit dollar). Specify the office space square footage, number of units, unit size, and income groups served and cost of each project. Provide evidence of timely development demonstrating that projects were on schedule and within budget.
- ii. Provide evidence of competence with meeting requirements of NMTC and LIHTC program and whether Master Developer, any affiliated entity or related property manager has ever been cited with any program violations by any state housing finance agency.
- iii. Indicate the projects which employed **alternative construction techniques**, such as deconstruction, prefabricated buildings, etc. Indicate projects employing **sustainable development techniques** and all LEED-certified development projects.
- iv. Demonstrate experience with **property management** of mixed-income, mixed-finance, and mixed-use rental developments of similar size, either directly or through supervision of property management provided by a third party. Include information about income groups served, current occupancy levels, operating deficit history, and ability to provide funding for community and supportive services programs.
- v. Provide profiles of **key staff**, including the Project Manager, who will be involved in the redevelopment effort. Specify the roles of

**key staff in** carrying out this development initiative and their previous experience with housing development and redevelopment.

- vi. Include one (1) copy of three (3) concurrent years of audited or Certified Public Accountant prepared **financial statements** from each member of the Master Developer's team who will be providing any guarantees in connection with the development and operation of the project. The financial statements must include the most current year for which audited or CPA prepared financial statements are available. The statements must include an Income Statement as well as a Balance Sheet showing assets, liabilities and net worth of the entity. Financial statements and bank references may be placed in a separate sealed envelope marked "confidential." Additionally, submit one (1) bank reference for the Master Developer.
- vii. Provide a statement indicating how the Master Developer will honor all financial guarantees, should the need arise.
- viii. In addition to the bank reference, five (5) references must be submitted for the Master Developer. References that are relevant to the scope of work as anticipated in this RFQ including one (1) from a public sector entity and four (4) from among the following entities are required:
  - (i) Construction and permanent lenders;
  - (ii) LIHTC and/or NMTC limited partner investor;
  - (iii) General contractor on a comparable development;
  - (iv) State Housing Finance Authority, if available; and
  - (iv) A community group or public housing resident group that worked with the Master Developer on a specific project.

**F. Profiles of the Development Team Members**

- i. For team members not directly employed by the Master Developer, provide a narrative overview of their experience within their respective disciplines on the planning, development, and operation of commercial office and public housing developments of comparable size and complexity in urban areas; and
- ii. Three (3) references as described in E.viii above must be submitted for each business entity member of the development team.

NOTE: In providing references in accordance with E.viii and F.ii, please provide name, title, organization name, phone and facsimile numbers, and e-mail addresses. **Please reference the name of the project with which the reference is familiar.** Ensure that all names and phone numbers are current.

**G. Technical Response to Proposed Revitalization Plan**

Respondents must provide a preliminary conceptual vision for how they would approach the revitalization of the HPHA's Administrative Offices site and provide conceptual site renderings to illustrate the proposed vision and to support the Master Developer's approach to creating holistic and sustainable communities.

i. Vision for the Site and Neighborhood

The response must include the Master Developer's initial vision for offices and housing on the HPHA's Administrative Offices site. The HPHA's Administrative Offices shall be no less than 27,000 sq. ft. The analysis should be in graphic and narrative form; **specific site designs are not required at this time but concepts shall be submitted for illustrative purposes.** The narrative must provide the Master Development Team's initial reaction to the site as well as how to achieve the HPHA's stated objectives and plans for the larger neighborhood.

ii. Financing Approach

Describe how the Master Developer will pursue financing for the redevelopment effort and leverage HPHA's resources (including land, rental assistance and HUD and HPHA capital funds). Identify the various funding sources that are appropriate and the developer's capacity to obtain NMTC and LIHTC allocations/awards in Hawaii.

iii. Business Terms

**Role of the HPHA.** In consideration of contribution of resources including some funding and land, the HPHA anticipates a return on its investment consistent with its role. The form of this return can include a share of developer fees and cash flow, rent on the land that is ground leased, or by other mechanisms proposed by the Master Developer and acceptable to the HPHA. The Master Developer should propose a specific role for the HPHA in the ownership structures (for both the residential and non-residential components), as appropriate (e.g. special limited partner, co-developer, lender, ground lessor, etc.) that allows them to receive

an investment return and does not negatively impact the underlying project economics.

The HPHA is interested in gaining capacity in mixed finance and tax credit property management and the Master Developer respondent must provide a description regarding how the HPHA and/or its staff can participate in and/or develop experience managing mixed-income communities over time. The HPHA understands that any role it plays in development and/or property management is subject to the approval of equity investors and lenders.

**Fees and Cost Limitations.** HUD's Cost Control and Safe Harbor Guidelines will be the basis for negotiating business terms.

<http://www.hud.gov/offices/pih/programs/ph/hope6/grants/admin/safeharbor.pdf>

These guidelines set limits for developer, contractor and property management fees, govern the use of, contribution to, and pay out of reserves and developer fees, control the HPHA's contribution to funding predevelopment activities, and determine how much public housing funding can be provided to fund a development. Funds may be provided for the development of the public housing units in accordance with regulatory and policy restrictions.

The Master Developer must state its position and reasoning for each of the following development cost areas:

1. Master Developer's expected amount and method of compensation for predevelopment activities.
2. Master Developer proposed development fee, stated as a percentage of total development costs as defined by HUD.
3. Compensation and return on investment to be paid to the HPHA, including a share of development fees, ground lease payments, property management fees, incentive fees, interest earnings on loans, and/or residual cash flow.

**Development guaranty.** For every development phase, the Master Developer shall provide an unlimited guaranty of completion and performance from a financially responsible entity satisfactory to the HPHA to ensure that the development is completed. The guaranty shall cover development costs in excess of contingencies agreed to by the HPHA. Further details of the guaranty will be negotiated and included in the Master Development Agreement.

**Right of first refusal and/or purchase option.** The HPHA will be provided a right of first refusal and purchase option using the minimum purchase price permitted under federal tax law to secure the right to purchase public housing units in which they are a part upon expiration of mortgages, refinancing, or notification of interest/readiness to sell housing developments.

**H. Community Participation**

Describe how the team will involve the HPHA staff and surrounding community in the planning and implementation of the redevelopment activities. The response must include a discussion of the approach and methods your team will utilize to assure meaningful participation of staff, community stakeholders and local government entities in the planning and implementation.

**I. M/WBE/Section 3 Participation Plan**

The response must include a discussion of the approach and methods your team will utilize to assure significant employment of residents of the HPHA and other individuals eligible as Section 3 participants. Describe prior development experience utilizing Minority/Women's Business Enterprises (M/WBE) and local businesses insufficient detail to reveal the team's track record and allow an assessment of the level and quality of effort.

**J. Required Certifications and Information**

The following documents, which are contained in the Appendix, must be included in the submittal and must be properly executed and/or notarized:

- i. Acknowledgement of Addenda
- ii. Non-Collusive Affidavit
- iii. HUD Form 5369C Representations, Certifications, and Other Statements of Respondents
- iv. HUD Form 2992 Certification Regarding Debarment and Suspension

(END OF SECTION)

## **Section 4 Submittal Evaluation & Award**

### **I. Submittal Evaluation/Contract Award**

Submittals received in response to this solicitation may be evaluated using a two-stage evaluation process. Stage I of the evaluation process will be used to determine the respondents that will comprise the competitive range, from which final selection for contract award will ultimately be made. Stage II of the evaluation process will be reserved for the competitive range respondents only. Scoring will be based upon how well the submittal meets the criteria established in this RFQ.

During Stage I of the evaluation process, all responsible and responsive submittals will be evaluated and scored by an Evaluation Committee approved by the HPHA's Executive Director or designee. Scoring will be based on predetermined Evaluation Criteria contained in the solicitation. The available points associated with each area of consideration are shown. The results of the evaluation will be used to determine those respondents to be included on the competitive range.

The competitive range shall include those respondents who are determined through the evaluation process and due diligence review to be the most qualified. These respondents may be requested to supply additional information to assist in completing the due diligence review. Failure to satisfactorily complete the request for additional information for due diligence review within the timeframe established by the HPHA will result in exclusion from the short list.

Stage II of the evaluation process will entail presentation/interviews with the respondents on the short list. Respondents not included in the competitive range will not proceed to Stage II of the evaluation process. The purpose of the presentations/interviews is to provide the Evaluation Committee an opportunity to pose questions emanating from their review of the written responses and obtain clarifications. The HPHA may also provide an opportunity for respondents to submit Best and Final Offers based on questions and discussion at the interviews. The Evaluation Committee reserves the right to schedule site visits to existing properties completed by the short-listed respondents. Stage II evaluation will be conducted upon completion of the presentations/interviews in accordance with the same procedures and criteria outlined above for Stage I evaluation.

The respondent with the highest score from Stage II of the evaluation process will be selected to proceed to the contract negotiation stage. If a contract cannot be negotiated with this firm, negotiations will be terminated. The HPHA will then initiate negotiations with the next highest rated respondent in the competitive range. This procedure will continue until a mutually satisfactory contract has been negotiated.

## II. Evaluation Criteria

The HPHA reserves the right to make no award or decline to enter into negotiations should it believe that no respondent to this RFQ will be capable of delivering the necessary level of services within an acceptable price range and/or time period. The HPHA further reserves the right to forego Stage II of the evaluation process and enter into negotiations with the highest ranked respondent from Stage I of the evaluation process. If an agreement cannot be negotiated with this respondent, the HPHA will terminate negotiations. The HPHA will then initiate negotiations with the next highest ranked respondent. This procedure will continue until a mutually satisfactory agreement has been negotiated. Contract award will be subject to approval by the HPHA's Board of Directors, and possibly the United States Department of Housing and Urban Development.

The evaluation of such submittals will be based solely on the evaluation criteria set out in this RFQ. The review criteria will be as follows:

<i>Evaluation Factors</i>	<i>Points</i>
<p><b>Experience and Capacity of Development Team to Develop and Manage Property</b></p> <p>The degree to which the Master Developer and Team demonstrates:</p> <ul style="list-style-type: none"> <li>• Cohesion of the team, as demonstrated by previous experience working together, and coherence of their technical response.</li> <li>• Successful experience in the planning and construction of commercial office space and public housing units in development efforts of comparable size and complexity in urban areas.</li> <li>• Ability to obtain, structure and implement layered financing for such projects, including NMTC, 4% and 9% tax credits and other sources of financing.</li> <li>• The degree to which the Master Developer demonstrates successful experience with ownership and property management of mixed-income, mixed-finance mixed-use rental developments of similar size, either directly or through supervision of property management</li> <li>• The financial capacity (as developer and provider of guarantees) as evidenced by financial statements, the firm's most recent audit and bank references, and the Master Developer's discussion of how it intends to honor all guarantees should the need arise.</li> <li>• The degree to which members of the team (other than the Master Developer) demonstrate successful experience in their respective disciplines as required for the planning, development and operation of developments of comparable size and complexity in urban areas.</li> <li>• The degree to which the Master Developer demonstrates it has the experience and capacity to build the HPHA's</li> </ul>	<p><b>30</b></p>

<p>capacity in mixed finance and tax credit property management.</p> <ul style="list-style-type: none"> <li>Minimum number of references provided for each Development Team member and quality of references (both listed and unlisted).</li> </ul>	
<p><b>Familiarity with Public Housing Requirements</b></p> <ul style="list-style-type: none"> <li>The degree to which one or more members of the Master Developer's team demonstrate familiarity with rules and requirements applicable to mixed-finance development, and public housing operations.</li> </ul>	<b>10</b>
<p><b>MBE/WBE/Section 3 Employment and Contracting Plan</b></p> <ul style="list-style-type: none"> <li>Extent to which M/WBE/Section 3 businesses are included on the Development Team.</li> <li>Level and quality of previous experience utilizing M/WBE/Section 3 businesses.</li> <li>The degree to which the development team demonstrates its commitment to ensuring that HPHA's stated M/WBE/Section 3 goals are met and/or exceeded.</li> </ul>	<b>5</b>
<p><b>Technical Response – Creativity and Approach</b></p> <ul style="list-style-type: none"> <li>The degree to which the Master Developer's preliminary vision statement is creative, green and innovative, meets the needs of the HPHA and can be used as a model for future sustainable development.</li> <li>The degree to which the Master Developer understands the critical issues of the project.</li> <li>The degree to which the Master Developer clearly and concisely describes resident and the surrounding community participation and involvement.</li> </ul>	<b>30</b>
<p><b>Technical Response – Business Terms</b></p> <ul style="list-style-type: none"> <li>The degree to which the Master Developer has demonstrated a feasible financing and development plan.</li> <li>The degree to which the Master Developer proposes reasonable developer contributions and fees and minimum contributions from the HPHA.</li> <li>The degree to which the Master Developer provides specificity in its proposed ownership and fee structure to gain the most benefit to the HPHA and its return on investment and the long-term viability of the development.</li> </ul>	<b>25</b>
<p><b>Total Possible Points</b></p>	<b>100</b>

The HPHA may enter into negotiations of a Master Planning Agreement for the Master Developer's role and responsibilities during the planning process with the highest-ranked Respondent according to the evaluation criteria contained herein, provided the award is in the best interest of the HPHA. The highest ranked Respondent will be notified at the earliest practical date. No award may be made

to respondents that are on the United States Department of Housing and Urban Development's (HUD) list of contractors ineligible to receive awards from the HPHA or the United States Government, as furnished from time to time by HUD or debarred to do business by the state. The HPHA reserves the right to not award a contract if respondents are not deemed qualified or responsive to the submission requirements of this RFQ. The HPHA also reserves the right to request replacement of specific members of the Master Developer's team. If the HPHA is unsuccessful in contract negotiations with the highest-ranked respondent, the HPHA reserves the right to enter into negotiations with the next highest-ranked respondent. The RFQ may be canceled and any or all submittals may be rejected in whole or in part, when determined by the HPHA to be in the best interests of the State.

(END OF SECTION)

**Section 5  
Appendix**

- |     |  |                       |
|-----|--|-----------------------|
| 1.  | Notice of Intent to Respond  | Due February 10, 2015 |
| 2.  | School Street Property Site Map  | For Information Only  |
| 3.  | Hawaii Appleseed Center for Law and Economic Justice Policy Report: Innovative and Affordable Models to Meet Our Housing Needs | For Information Only  |
| 4.  | HPHA Public Housing Wait List – Bedroom Size   | For Information Only  |
| 5.  | Acknowledgement of Addenda   | Due March 10, 2015    |
| 6.  | Non-Collusive Affidavit  | Due March 10, 2015    |
| 7.  | HUD Form 5369-B Instructions to Offerors<br>Non-Construction   | For Information Only  |
| 8.  | HUD Form 5369-C Certifications and Representations of Offerors   | Due March 10, 2015    |
| 9.  | HUD Form 5370-C – General Conditions for Non-Construction Contracts  | For Information Only  |
| 10. | HUD Form 2992 Certification Regarding Debarment and Suspension   | Due March 10, 2015    |
| 11. | Submittal Checklist  | For Information Only  |

(END OF SECTION)

APPENDIX 1

NOTICE OF INTENT TO RESPOND

RFQ OED-2015-05

Request for Qualifications for a Master Developer for the Mixed Income, Mixed Use Redevelopment of the HPHA's Administrative Offices and the Development of Low Income Public Housing Units on the Island of Oahu

The purpose of this Notice of Intent to Respond is to help the HPHA manage information and to ensure communications targeted to prospective respondents reach their intended recipients. Answers to questions asked during the Pre-Submittal Conference and amendments to the RFQ will be sent to organizations that complete and return a Notice of Intent to Respond. By completing this Notice of Intent, the undersigned is not bound to submit a response.

**The HPHA will only initiate continuing communication about the RFQ with firms and individuals that return the Notice of Intent to Respond by 4:30 p.m. Hawaii Standard Time, Tuesday, February 10, 2015.** The authorized representative will serve as the single point of contact with the respondent throughout the selection process and all communications to the respondent will be addressed to the authorized representative.

The Notice of Intent to Respond shall be completed and returned to Rick Sogawa, RFQ Coordinator.

Organization or Team

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

Authorized

Representative: \_\_\_\_\_

**Authorized Representative Contact Information**

Organization \_\_\_\_\_

Street \_\_\_\_\_

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

P. O. Box: \_\_\_\_\_

Suite or Floor #: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip

Code: \_\_\_\_\_

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

Ext.: \_\_\_\_\_

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

E-mail: \_\_\_\_\_

**PLEASE PROVIDE THE INFORMATION REQUESTED ON THIS PAGE AND SUBMIT**

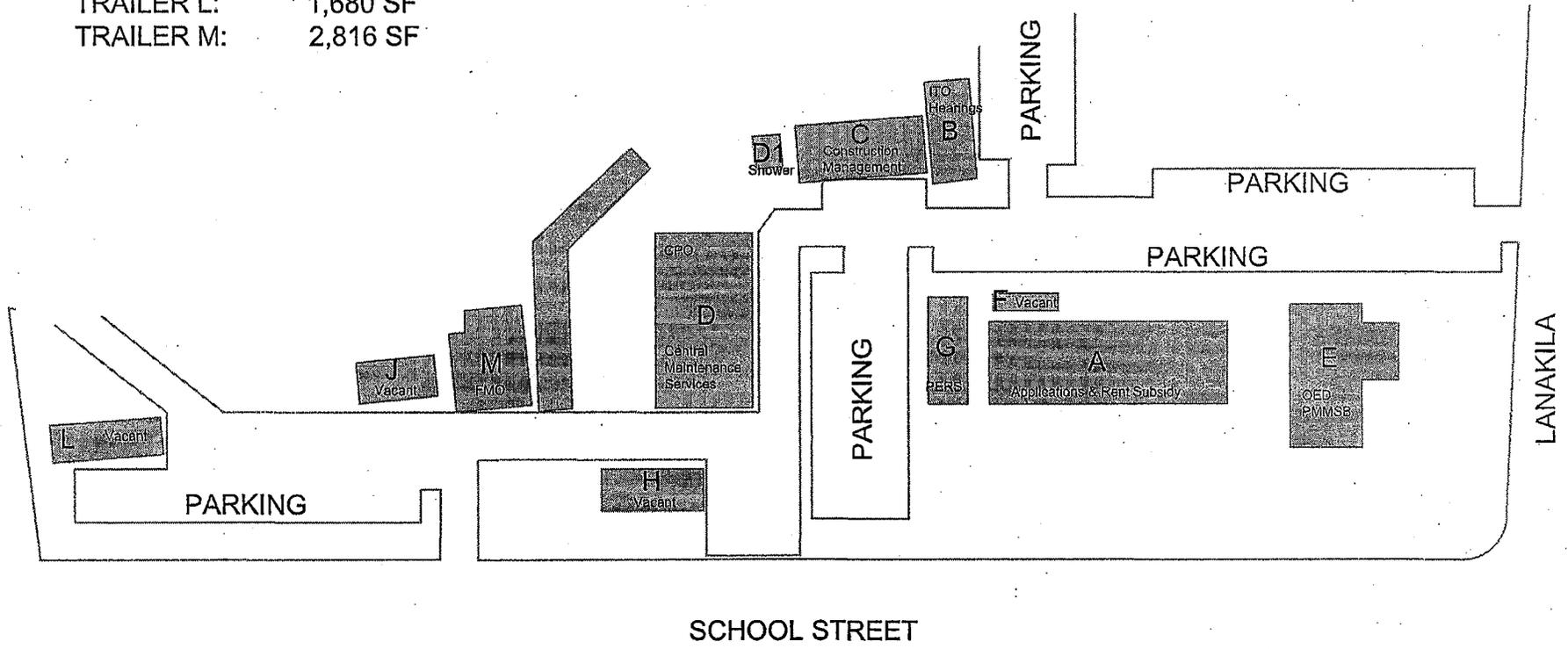
**TO:**

**Rick Sogawa, RFQ Coordinator**

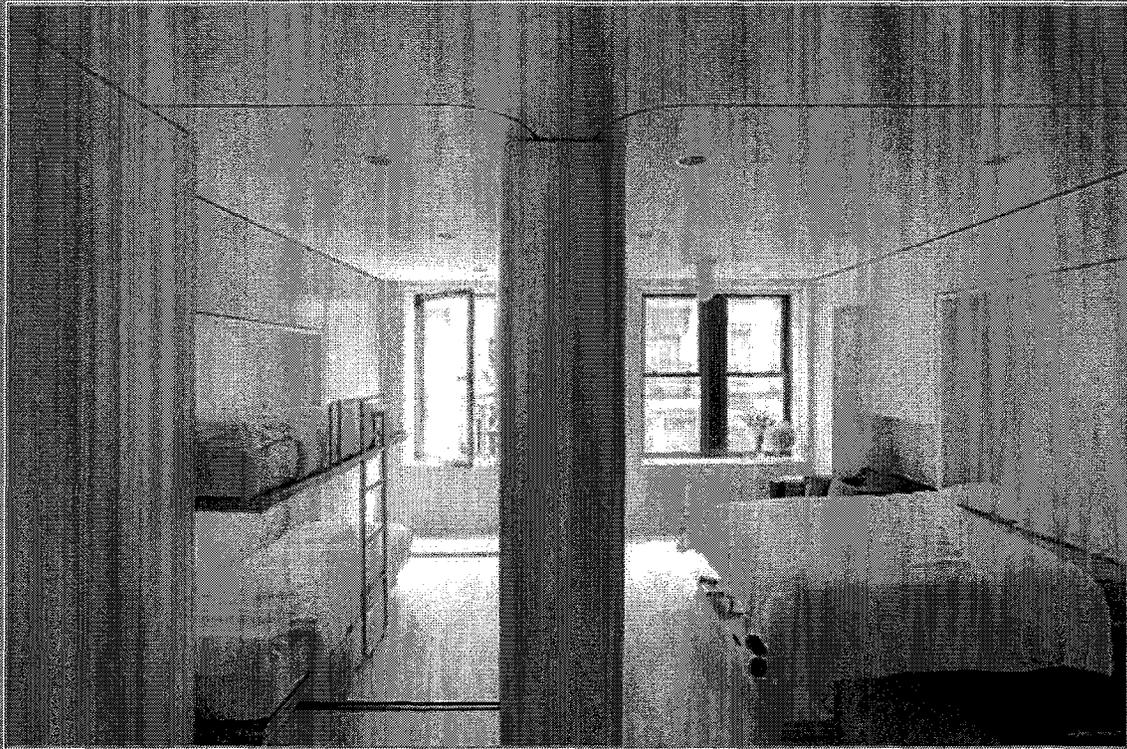
**Email: [rick.t.sogawa@hawaii.gov](mailto:rick.t.sogawa@hawaii.gov)**

**Fax No.: (808) 832-6039**

- BLDG A: 6,850 SF
- BLDG B: 1,650 SF
- BLDG C: 2,800 SF
- BLDG D: 5,100 SF
- BLDG D1: 255 SF
- BLDG E: 4,950 SF
- TRAILER F: 200 SF (LEFT SIDE - DIAMOND HEAD)
- TRAILER G: 1,712 SF
- TRAILER H: 1,458 SF
- TRAILER J: 1,216 SF
- TRAILER L: 1,680 SF
- TRAILER M: 2,816 SF



# REIMAGINING HOUSING IN HAWAI'I



Hawai'i Appleseed Center  
for Law and Economic Justice  
Policy Report:

November 2013

*Innovative and Affordable Models  
to Meet Our Housing Needs*



**Hawai'i Appleseed  
Center for Law and  
Economic Justice**

P.O. Box 37952  
Honolulu, Hawai'i  
96837-0952  
(808) 587-7605  
www.hiappleseed.org

**Cover:** A "micro-unit" with convertible beds that optimize space by folding into the wall during the day, transforming into shelving and table surfaces.

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**SROs / Microunits..... 4**

**Accessory Dwelling Units and Ohana Housing..... 8**

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**Small, Ultra Affordable Houses ..... 13**

**Modular Housing ..... 15**

**Keys to Developing Innovative Affordable Housing ..... 19**

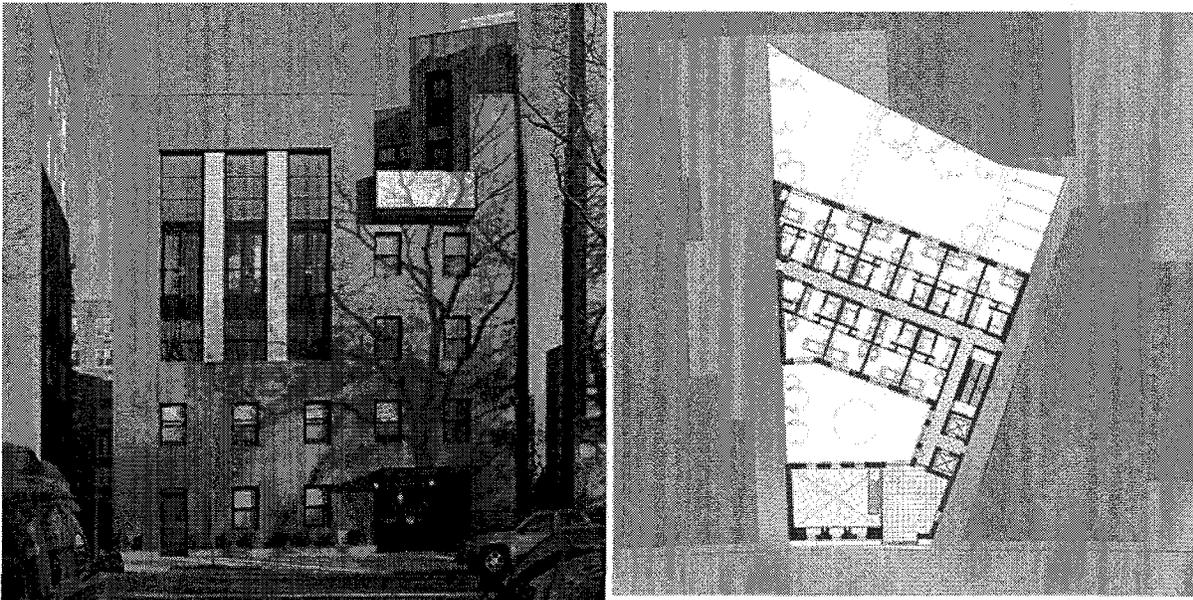
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## INTRODUCTION

**T**HE population of people in need of affordable housing in Hawai'i is diverse, united only by a lack of income that makes finding permanent, stable homes exceedingly difficult. Low-income households include singles, couples, kupuna, and families with children. Different types of households have different housing needs. A family with young children may thrive in a multi-bedroom unit outside of the urban core, but a single person transitioning out of chronic homelessness may be most successful living closer to supportive services. There is no single housing solution, but it is clear that our current housing needs are far from being met.

Fortunately, there are a wide variety of housing models that can be used to increase supply of affordable housing. This report builds on Hawai'i Appleseed's previous publication, "Addressing Homelessness: New Approaches to Affordable Housing in Hawai'i." We seek to present new ideas to develop units more efficiently and at a lower cost while still providing dignified housing that meets the needs of various segments of Hawai'i's population.

Key options include very small rental units; small, ultra-affordable single-family homes; adaptive reuse of existing buildings; and accessory dwelling units. The primary focus of this report is on rental housing, but these models can be adapted for ownership as well.



Bronx Park East is a single room occupancy building in New York City. The 69 units are 285 sq. ft. each and come with private baths and kitchenettes. The building also contains offices for service providers, a gym, laundry facilities, a large community room, a terrace, and garden. The structure is irregularly shaped to fit on its trapezoidal lot.

## SROs / MICRO-UNITS



An SRO “aPodment” building in Seattle, WA geared toward young professionals. Units are 170 sq. ft. on average.

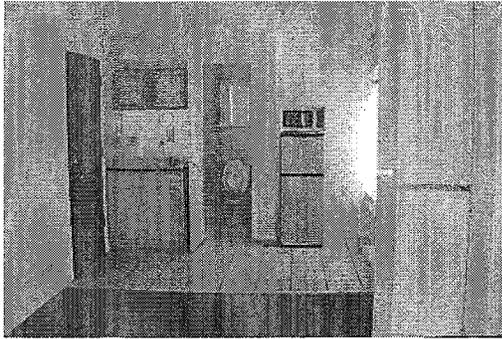
**S**INGLE ROOM OCCUPANCIES (SROs) are a form of housing targeted toward singles or couples and others who do not need large domestic spaces. Usually one room, traditional SROs are located in dormitory-style buildings where occupants share kitchens and bathrooms. More modern SROs known as “micro-units” are built as small efficiency apartments that include kitchenettes, half-baths, or full bathrooms in-unit. In cities across the world, SROs are being used to serve a wide variety of demographics, from those who require permanent supportive housing, to young urban professionals willing to pay market rents to live downtown. Yet SROs are not widely used in Hawai‘i despite the great need for single-occupant housing: almost one out of four households is composed of one occupant,<sup>1</sup> a rate more than double what it was in 1950.<sup>2</sup> In light of this, SROs represent significant untapped potential for development of much needed affordable housing in Hawai‘i.

Dating back to the turn of the last century, SROs provided housing for low and middle-income workers in urban areas across the country. But over time, many SROs fell into disrepair, while others began to disappear as the value of land in the urban core increased and neighborhoods gentrified. There was a nationwide movement to demolish SROs, and Honolulu was one of the many areas that largely

### Populations Suited for SROs

- The general population as workforce housing for moderate and low-income earners
- Young people in early stages of their career, especially those who value desirable locations and convenience
- Youth aging out of foster care
- People experiencing homelessness
- Older adults able to live independently
- Populations who traditionally face challenges to accessing housing, such as ex-offenders and people with mental health problems or disabilities

## SROs / MICRO-UNITS



This aPodment unit includes a private bath with shower. Full kitchen facilities are shared.

eliminated them from their housing stock.

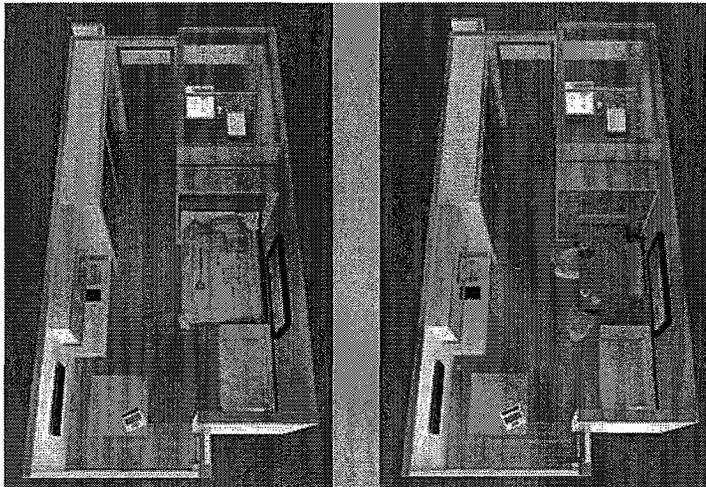
However, some cities, such as Los Angeles and San Francisco, sought to preserve SROs as an affordable housing option through concerted policy efforts. Now SROs are enjoying a world-wide revival. Dense cities like Tokyo have pioneered the model of livable efficiency units. In the U.S., SROs have recently gained widespread acceptance as an affordable housing option for working professionals, allowing them to live close to their workplaces in expensive cities such as New York, Boston, and San Francisco.

Private developers are building SROs to meet demand for lower-cost housing. While these units are generally offered at market rates, they demonstrate how cities with tight housing markets are taking a creative approach that addresses the growing number of people living alone.

Although SROs fell out of favor because they came to be associated with disrepair and disreputable tenants, more recent experiences in other cities have shown that SROs can be an excellent option for those otherwise priced out of the housing market. They are an effective way to conveniently house people in more populous areas: they are generally readily located closer to jobs and public transportation; small efficiency units can reduce costs due to greater density; they require less land and a smaller structure relative to the number of units; and floor plans are easily replicable.

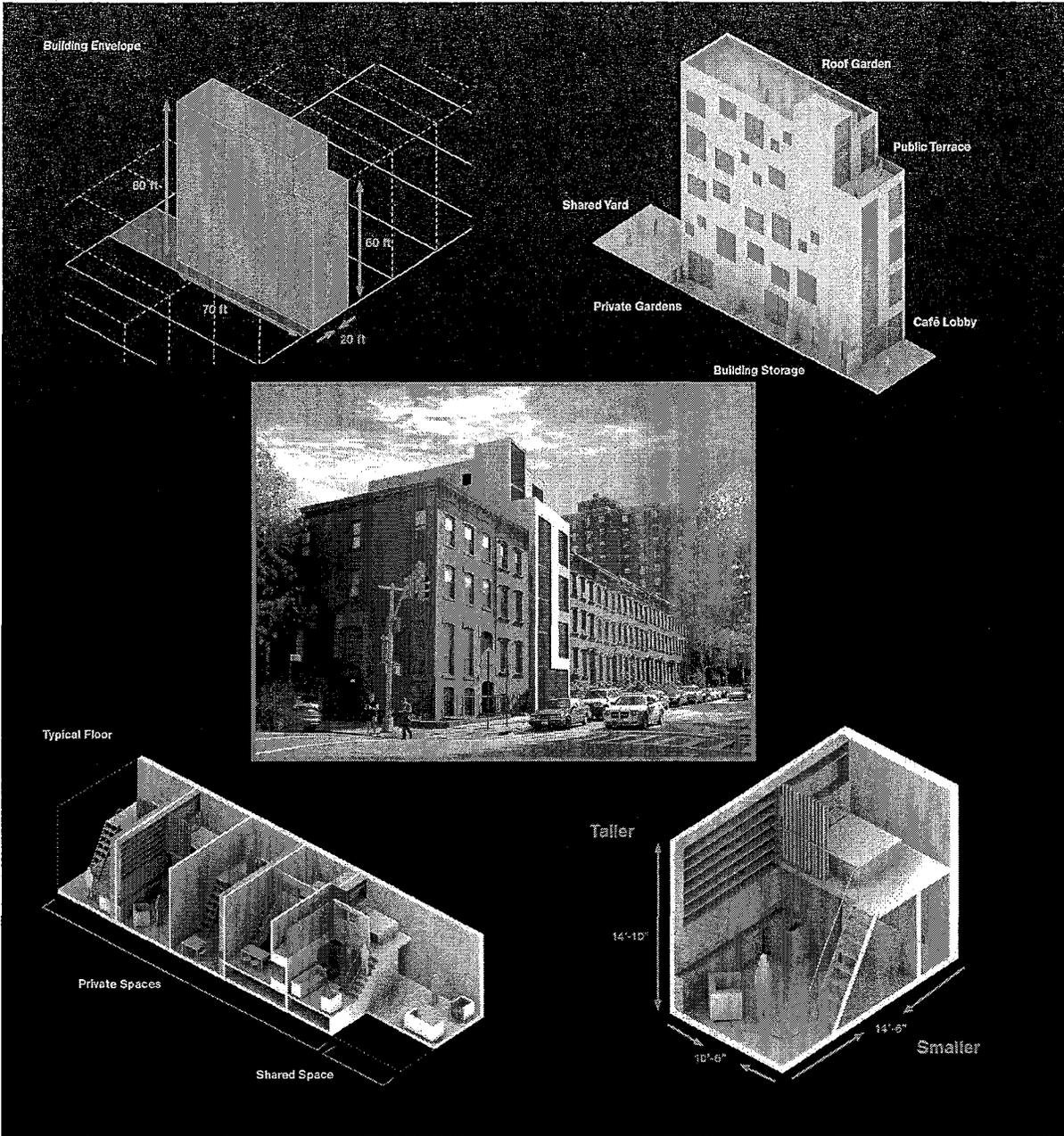
Compact building designs can decrease the need for expensive building components such as the foundation, roof, exterior walls, and elevators. The small and standardized sizes of micro-units means buildings can be smaller and used for infill development and in mixed-use neighborhoods. SROs also work in adaptive reuse contexts—housing created by converting already-existing buildings such as schools, former hotels and dormitories, warehouses, and even abandoned homes.

Micro-units, the modern versions of SROs, are generally single room units ranging in size from 150 to 350 square feet. To maximize the use of space, micro-units may contain lofts or other architectural features such as built-in shelving and storage or convertible furniture that maximizes the use of small spaces.



To make the most of limited space, some micro-units use convertible furniture, such as the above design with a Murphy bed that transforms into a dining table.

# SROs / MICRO-UNITS



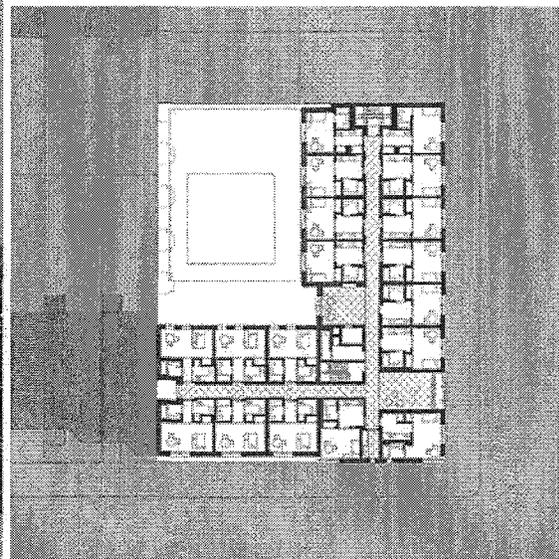
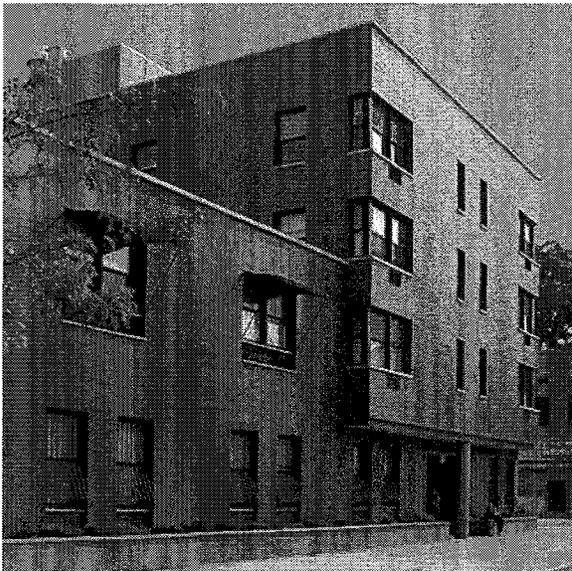
The above design proposal was created for a micro-unit design competition—Adapt NYC—held by the city government of New York. The building fits on a 25' x 100' lot and consists of 20 units of 232 sq. feet. Fifteen ft. ceilings allow full use of the loft area. Common areas are located on each floor.

## SROs / MICRO-UNITS

A wide variety of populations could be served by a micro-unit apartment complex. Lower market rents would attract young professionals and older adults, while the reduced cost per unit would help manage expense for units designated as affordable for low-income people. These factors make them well-suited for mixed income housing.

SROs have also been successful as permanent supportive housing for chronically homeless individuals and Housing First programs. In some nonprofit-run developments, formerly homeless residents assist with the maintenance and operation of the housing, and receive rent waivers or small stipends, thereby creating jobs for the residents.

Housing First is an evidence-based approach that directly places individuals experiencing homelessness into long-term housing with support services. In cities around the country this model has been successful at reducing chronic homelessness and its associated costs. The state's Office of Homeless Programs recently completed a successful Housing First pilot program that served 71 individuals. The program demonstrated that aggressive outreach focused on housing can engage some of the most vulnerable, hard-to-reach individuals. The City and County of Honolulu will be implementing this strategy as a major component of its plan to end homelessness.



Marcy Residence in Brooklyn, New York is a 50 unit SRO building for people with mental illness. Small individual units are located on the upper levels, with large common areas on the ground floor.

## ACCESSORY DWELLING UNITS AND OHANA HOUSING

**A**CCESSORY DWELLING UNITS (ADUs) are separate living areas with their own kitchen, bathroom, and sleeping facilities, built on a single-family lot. They may be inside, attached to, or detached from the main house. ADUs are an example of a public-private solution to housing stock shortfalls. The property owner responds to market demand and bears the cost of constructing and managing an ADU.

Hawai'i is already familiar with the concept of accessory dwelling units through ohana housing. Similar to an ADU, ohana housing is an additional housing unit built on a lot that usually allows for one residential dwelling, but its use is restricted to relatives of the family living in the main house. In practice, homeowners frequently disregard ohana unit restrictions and rent to people other than family. Some property owners receive permits for "recreation rooms," which are then rented out. Although they violate ordinances, these rentals meet community needs by helping homeowners pay their mortgage and creating more affordable units. Hawai'i should expand upon the concept of an ohana unit and allow general development of accessory dwelling units that can be rented to any tenant.



Newly constructed main dwelling and ohana unit in Kihei, Maui.

### The Impact of ADUs

ADUs offer many benefits to homeowners and communities, although they also present challenges such as increased traffic and parking demands, as well as strain on infrastructure, particularly sewage. These are real issues that already exist because of the ADU black market, but they can be ameliorated by careful planning and rethinking regulation of ADUs—a worthwhile effort in light of the benefits.

#### Benefits to Property Owners

Rental income helps homeowners to stay in their residences and pay of mortgages, providing some relief from the high cost of living in Hawai'i. This additional income can also help prospective homeowners buy their first home, or older adults to age in place. Alternative arrangements could include a bartering system, in which homeowners trade housing for services such as caretaking and chores.

#### Benefits to the Community

Because they are small and located away from the street, well-designed ADUs blend in with the surrounding community and preserve the neighborhood's character. ADUs can be attached to

## ACCESSORY DWELLING UNITS AND OHANA HOUSING

the main dwelling's utilities, where infrastructure is already in place, reducing government costs as well as the demand for the development of infrastructure in outlying areas. ADUs also increase the value of the property on which they are located, enhancing the property tax base. Additional rental units result in increased revenue from additional general excise taxes collected on rental income, monthly sewer base charges, and permitting fees.<sup>3</sup>

### Benefits to the Environment

ADUs are smaller than standard homes, and reducing the size of a home significantly reduces environmental impact. For example, a small home of 1150 square feet produces 36 percent less in greenhouse gas emissions over its lifecycle compared to a standard-sized house of 2260 square feet.<sup>4</sup> Accessory dwelling units also encourage neighborhood infill, preventing sprawl and promoting sustainable land use patterns.

### Accessory Dwelling Units Around the Country

Municipalities permitting and encouraging ADUs may look different from those in Hawai'i, but they generally share important similarities:

- a shortfall of affordable housing
- a desire to make efficient use of already-existing housing stock
- growth limitations that encourage infill to reduce the need for land acquisition
- high housing costs that displace low-income people

The examples below illustrate how ADUs have been used elsewhere to meet these needs.<sup>5</sup>

#### Lexington, Massachusetts

A historic town near Boston, Lexington has exhausted its supply of land for any new housing development. Like Hawai'i, the median home price is high (over \$600,000), and 18 percent of its residents are eligible for affordable housing. Lexington chose to emphasize ADUs to encourage neighborhood diversity and meet affordable housing needs while maintaining its historic character.

In 2005, the town made their existing ADU program more flexible and engaged in an outreach campaign to increase creation of ADUs. The bylaw changes reduced or eliminated minimum lot sizes, allowed up to two ADUs per lot, allowed ADUs on properties with homes built more than five years prior, and provided that ADUs can be built with new construction homes with a special permit. Further, the new ordinances require only one off-street parking space per ADU.

#### Santa Cruz, California

Only 7 percent of Santa Cruz residents can easily afford to buy a median-price home, making ADU income an important strategy in their affordable housing plan.<sup>6</sup> Santa Cruz took a proactive approach and actively supports the development of ADUs. To encourage rentals to low-income families, some development fees are waived for units rented to low or very low-income households. The town has created a program to facilitate the development of ADUs, providing technical assistance including pre-approved designs and floor plans that expedite the permitting process. An average of 40 to 50 ADUs have been constructed annually since the creation of this program.

## ACCESSORY DWELLING UNITS AND OHANA HOUSING

### Portland, Oregon

Portland has strict urban growth boundaries and heavily emphasizes the efficient use of land and transit-oriented housing. ADUs are now allowed in all residential zones with no minimum square footage requirements. After the city began creating incentives, such as waiving the Systems Development Charges (which had typically cost about \$10,000 per ADU), ADU development increased nearly five-fold in just two years. No additional parking is required for ADUs, which makes them easier to build and encourages the use of public transit.



Accessory dwelling unit in Portland, Oregon.

### Other ADU Initiatives

Barnstable, Massachusetts offers tax relief to property owners to offset the negative impact of deed restrictions in order to preserve the affordability of units. In addition to more traditional ADUs, Fauquier County, Virginia, permits “tenant houses” in zoned agricultural areas. At least one resident of the tenant house must work on the property for the property to qualify under the program.

### Ohana Housing: Overregulated and Underutilized

Ohana housing enables families to stay together—kupuna can “age in place” near their families and adult children can afford to stay in Hawai‘i. However, ohana housing is currently underutilized, with just 2,000 units established through the permitting process, even though more than 17,000 units on Oahu are eligible. Almost all of the ohana units in existence were permitted between 1982–1990, before restrictions limited occupancy to family members.

When ohana dwellings were first allowed in 1982, they comprised almost 25 percent of all single-family construction. In 2011, they accounted for a mere 2 percent of building permits. Maui has already loosened its restrictions on ADUs and seen far more ADUs developed than ohana dwellings on Oahu.

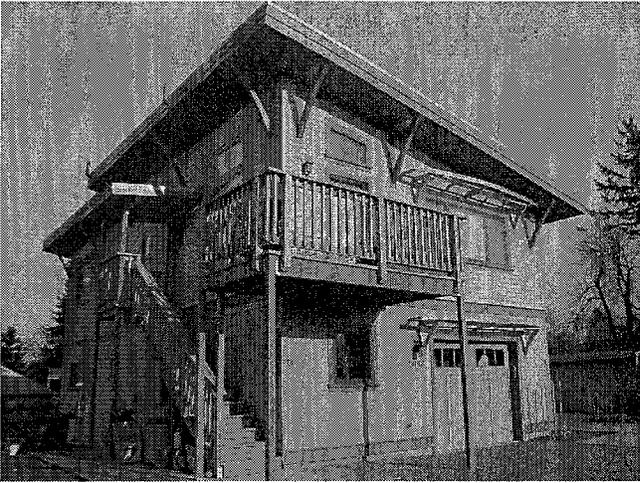
To create more affordable housing, Honolulu should remove restrictive covenants for ADUs that permit only ohana dwellings rented to tenants related by blood, marriage, and adoption. The requirement that accessory dwelling/ohana units be detached from the main house should be lifted. The firewall separation currently required for attached units is an unnecessarily difficult and expensive retrofit, especially for older single-wall homes. The county should also remove the two parking space requirement for ADUs depending on the demographics of renters.

By disallowing a flexible ADU program, homeowners may circumvent the permitting process and build illegal units, potentially creating substandard housing and causing the government to miss out on tax revenue and fees. It is unknown how many unauthorized ADUs exist throughout Hawai‘i, but given the high demand for affordable housing and the number of “recreational rooms” that have been permitted, it appears likely that many illegal ADUs have been constructed.<sup>7</sup> A property owner who is renting out an illegal unit has less of an incentive to remain in compliance with

## ACCESSORY DWELLING UNITS AND OHANA HOUSING

regulations or pay sewer fees and GET on rental income.

Some municipalities have created an “amnesty” program for illegally constructed units to be brought into compliance while preserving already-existing affordable units. For example, Barnstable, Massachusetts on Cape Cod created such a program which required that property owners with unauthorized ADUs rent to low-income tenants for one year to qualify for “amnesty” for compliance. Under the program many units have been brought into compliance, increasing safety and the affordable housing supply.



ADU constructed over garage.

Not only should Honolulu and other counties permit ADUs, but they should take a proactive approach to their creation. Additional incentives could include a GET exemption for income from low-income tenants residing in ADUs. This waiver could also apply to tenants renting individual rooms from homeowners. To encourage production, counties could reduce or waive permitting fees, especially in consideration of an ADU's smaller size.

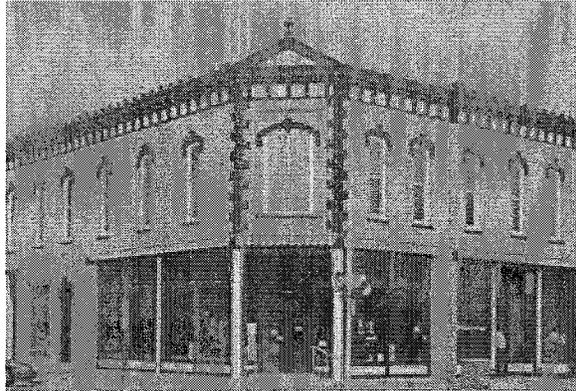
Since ADUs are constructed by private homeowners, the availability of financing is important, including the availability of loans for ADUs. Since appraising the value added to a property by an ADU can be challenging, Wellfleet, Massachusetts encourages ADU

construction through interest-free loans, while credit unions in Portland, Oregon have begun offering ADU-specific financing.

Public education about the many benefits of ADUs is critical because their creation relies on individual property owners taking initiative to expand our housing stock. The counties should permit ADUs on a broad scale. Limiting the density of ADUs and ensuring that neighborhoods have adequate infrastructure would address many of the major concerns. Creating an ADU ordinance and allowing existing dwellings to come into code will help ensure safety and increase revenue. Because illegal units are already being built, the counties should capitalize on this and permit ADUs, offer adequate assistance to homeowners interested in developing them, and promote broader awareness of ADU and ohana options.

## ADAPTIVE REUSE

**A**DAPTIVE REUSE is the repurposing of an existing building for a purpose other than its original use, generally taking advantage of under-utilized or abandoned properties. Conversion of these buildings is a sustainable approach to development that can help revitalize neighborhoods, increase public safety, and preserve historic buildings. Using an existing building is almost always more sustainable than the development of a new structure.



This 1890 building was converted into mixed-use commercial office, restaurant, and residential.

An ambitious approach to capitalizing on what already exists in urban areas is to survey and assess unused or underused buildings that can be converted into affordable housing. The Borough of Manhattan conducted a comprehensive survey of all vacant lots and buildings, finding many under-utilized properties. An innovative website—[impossibleliving.com](http://impossibleliving.com)—has taken a community-driven approach by allowing users to suggest abandoned buildings for reuse online.

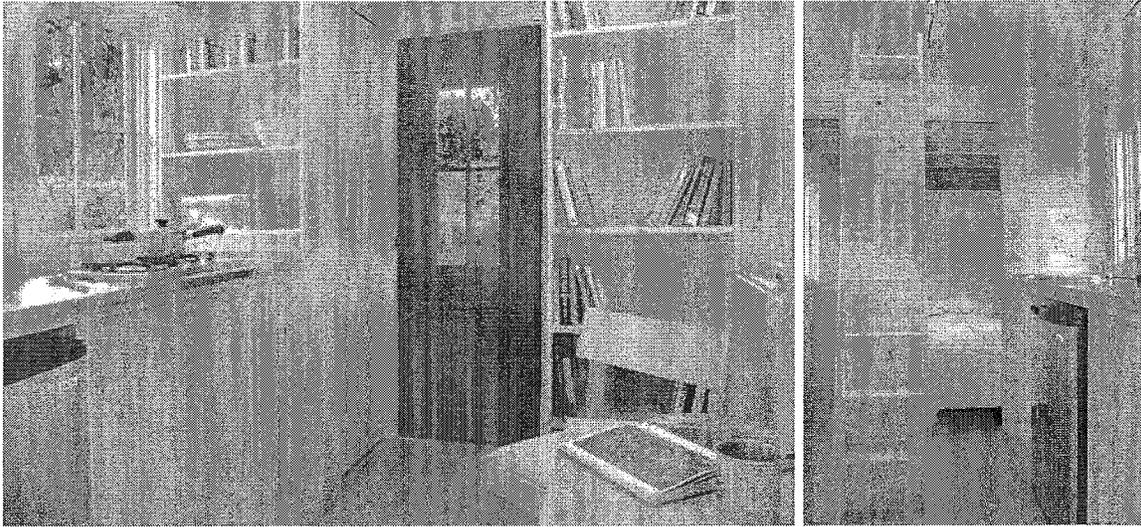


This former nursing home was converted into 48 units of permanent supportive housing for people who had previously been homeless.

Around the world, former warehouses and industrial buildings have also been frequently converted into lofts. From 1970 to 1999, Los Angeles gained a mere 4,300 units in its housing stock. Following the implementation of the city's Adaptive Reuse Ordinance, Los Angeles added at least 7,300 units in just nine years solely from the conversion of vacant commercial buildings into apartments, condos, and hotels. The Ordinance provides for an expedited approval process and ensures that older and historic buildings are not subjected to the same zoning and code requirements that apply to new construction.<sup>8</sup>

Given the high cost of construction materials in Hawai'i, such creative reuse is a sustainable and more affordable solution. Adaptive reuse of already-existing buildings is considered the "greenest" building.<sup>9</sup> In Hawai'i, the environmental impact of reuse may be even less than that of mainland structures because no heating is required, so the lack of updated insulation in older buildings is less important.

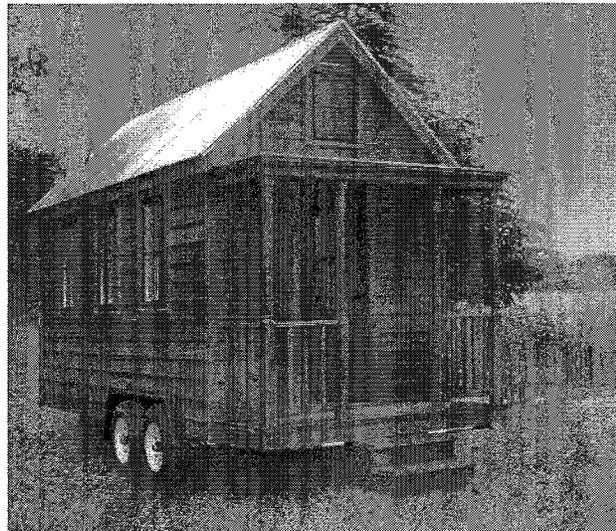
## SMALL, ULTRA-AFFORDABLE HOUSES



The interior of the 117 sq. ft. “Small House” pictured below right has a standing shower, RV toilet, hot water heater, sink, and stove.

**T**HE “SMALL HOUSE” movement has grown in national popularity as people seek to simplify their lives or economize. Small houses are more affordable and sustainable thanks to their energy-efficiency. Instead of equating small homes with poverty, the small house movement emphasizes design and efficient use of space over size. Some are built to be portable, and many small house designs can be used as accessory dwelling units. The concept is actually not new to Hawai‘i—some plantation housing is similar to these models.

Constructing small houses is ideal for both sweat equity, as in the Habitat for Humanity or Self-Help Housing models. A multitude of floor plans for small or tiny houses are available through specialized architecture companies. There are other good resources as well. For example, each year undergraduate students and architecture faculty at the Rural Studio of Auburn University design and build one “20K House” annually for families living in deep poverty.<sup>10</sup> Approximately \$13,000 is spent on construction costs, with an additional \$7,000 for labor. Creating a similar model with architecture students and faculty in Hawai‘i could drive innovation and foster civic engagement among the community to address affordable housing needs.



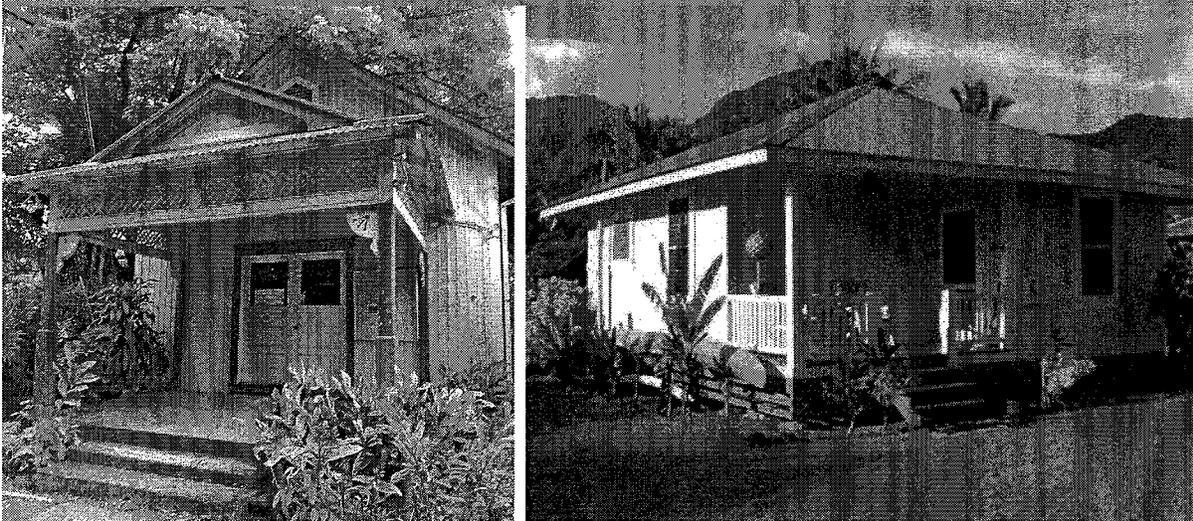
Some small houses are built on wheels so that they can easily be relocated.

## SMALL, ULTRA-AFFORDABLE HOUSES

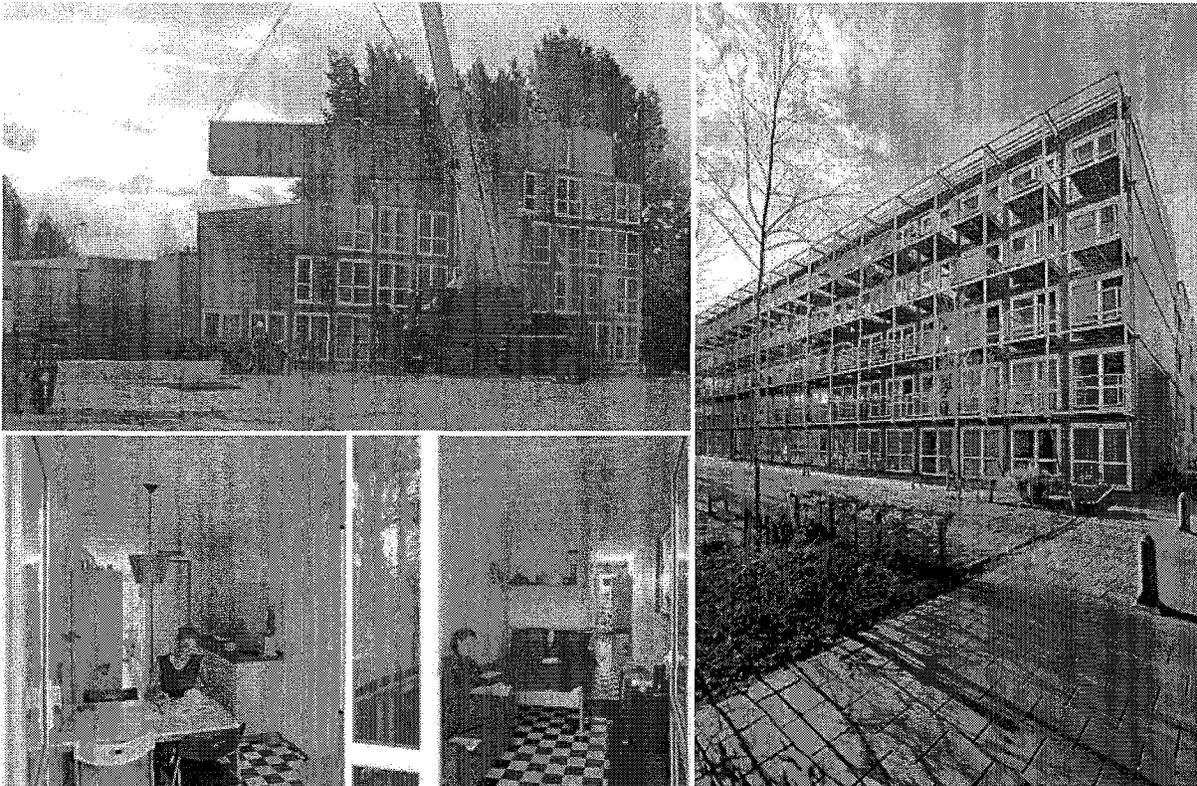
Beyond general affordable housing purposes, small houses could be used for development on Hawaiian Homelands. Twenty-eight percent of those experiencing homelessness are Native Hawaiian or part Native Hawaiian. While the waiting list for DHHL homesteads is staggeringly long, we also must address the homelessness crisis. Ultra-affordable small houses, possibly for rent, are one way of ensuring people have decent places to live while on the waiting list.



While the home above seems truly tiny, small houses are not all that dissimilar from the one-room plantation cottages familiar to Hawai'i, like the traditional and modernized homes pictured below.



## MODULAR HOUSING



Scenes from a 1000 unit "container city" built in Amsterdam to house university students. Each 320 sq. ft. unit includes a living and sleeping area, bathroom, and kitchen. The units were designed to be moved after five years.

**M**ODULAR HOUSING consists of prefabricated sections of buildings ("modules") that can be easily assembled on the building site. Using modular construction to create housing for single or multi-family units can offer significant cost savings on labor and construction materials.

Once a house is selected, it can take just six to eight weeks to be ready for a family to move in. Because the structure is constructed off-site, modular construction means that buildings and site work can be completed at the same time, dramatically reducing the length of construction time. This speed of construction both reduces overall labor costs and makes development more advantageous since developers can sell or rent more quickly. Separate assembly also means that construction is largely independent of the weather. Waste is reduced because the modules are replicated and therefore material and labor needs are predictable, reducing the environmental impact. Modular housing can also be used for temporary, relocatable buildings.

Modular housing is best-suited for projects with highly replicable spaces and would be an ideal fit for simplified microunit buildings. New York's first modular high-rise, the winning design from the adaptNYC microunit competition, is currently under construction

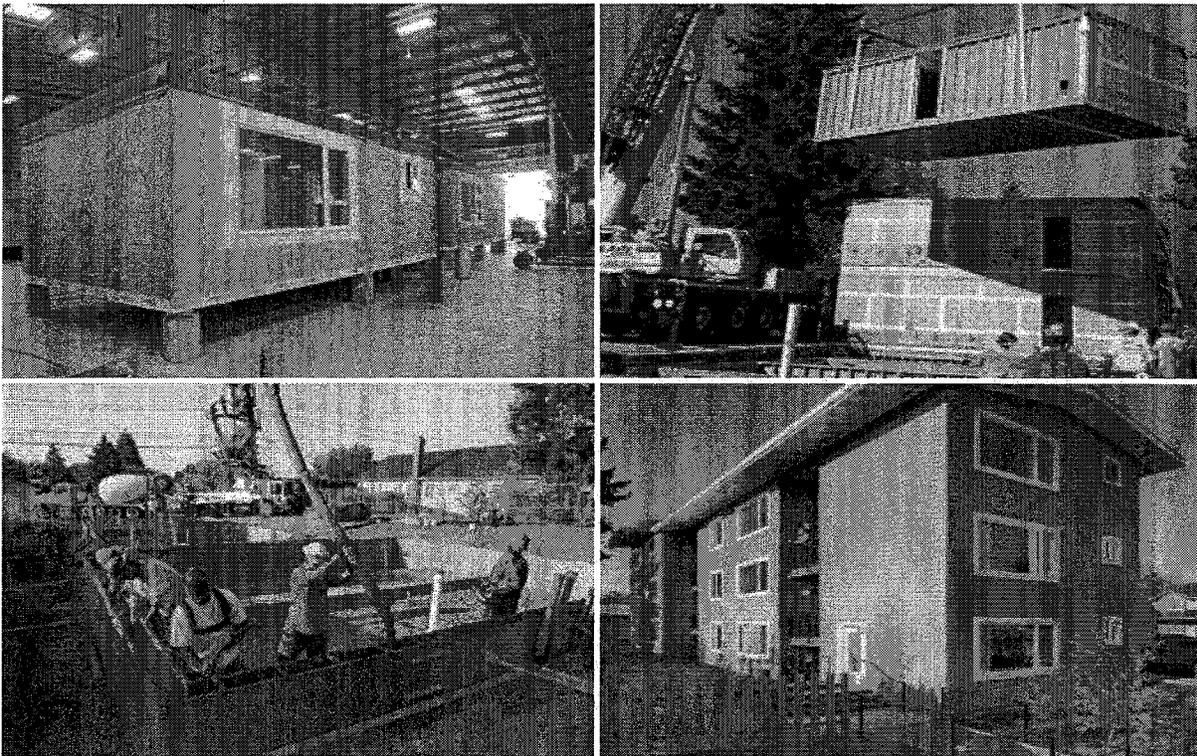
## MODULAR HOUSING

and utilizes locally pre-fabricated modules.<sup>11</sup> The developer expects that the accelerated construction schedule will result in savings for both construction and financing costs, enabling the creation of affordable units without public subsidies.

A Portland, Oregon multifamily affordable housing pilot (pictured below) was built in a local factory and then quickly assembled on-site, resulting in about 30 percent less time from design to move-in. The building is a mixed-income complex with elders, families, and youth aging out of foster care.<sup>12</sup>

Container housing, which has grown rapidly in popularity, can function as a building block for modular housing. Standard shipping containers provide the basic module and are designed as standard units. Containers can also be stand-alone single-family units or stacked and configured as multifamily complexes.

Given the cost of shipping to Hawai'i, modular construction may or may not be more affordable than traditional construction, but the creative adoption of modular housing could save time and labor. The possibility of purchasing partially pre-fabricated and flat-shipped modular housing may be financially efficient. Hawai'i could even explore the possibility of small factories on the island, helping create local jobs. Buildings could be constructed in city centers such as Honolulu and then sold and shipped to more rural areas.



Modular housing can be assembled in the factory while the site preparation work is being completed. Once the modular units are delivered to the site, the buildings go up quickly.



## MODULAR HOUSING



Perspective view of a low-income community that could be built using the modules on the previous page. According to the architect, KY International, "the variety of building heights and sizes [are] made possible through creative arrangement and simple modification of the base module—the potential is limitless."

## KEYS TO DEVELOPING INNOVATIVE AFFORDABLE HOUSING

### Cost Efficiency through Design and Experience

Simple, straightforward designs help to reduce costs and offer flexibility for residents to adapt living spaces to their needs. Instead of an emphasis on luxury and expensive finishes, the focus should be on creating a practical, comfortable unit that feels like a home. Location also makes a difference: residents have less of a need and desire for amenities when they live in a desirable and convenient location.

Similarly, a greater degree of standardization and replicability will help keep costs down. Simpler, standardized designs can be adapted to suit different settings and needs of residents. For example, the first floor of a micro-unit building could be used for any of the following: common areas in kupuna housing; offices for service providers in permanent supportive housing; or as commercial spaces in a mixed-use neighborhood. Future iterations of a model will have a knowledge base of cost-saving measures, including efficient and economical construction processes, development methods, and materials. The repetition also allows for continual refinement of the models as they are replicated in different settings.

### Community Engagement

In addition to the usual opposition to development, new housing models must overcome concerns resulting from unfamiliar concepts and designs. Hawai'i's housing stock is composed of traditional single and multifamily units, and community members may need to adjust their expectations regarding housing in order for these models to gain broad acceptance and use.

Our state, counties, and neighborhoods must see affordable housing as an asset, both in terms of its role in solving our housing crisis and as a valuable addition that can enrich communities. Examples from around the world of successful models that are livable, attractive, and well-integrated into their communities will help community members understand that there really are solutions to our housing shortfall. Being ready to respond comprehensively to public concerns will build the community's confidence in the project and lead to smoother execution.

Instead of focusing on preparing for community opposition and its rebuttal, project development should first emphasize proactive engagement of the public throughout the process, including input on design and management, as well as the process of integrating the development into the community.

## CONCLUSION

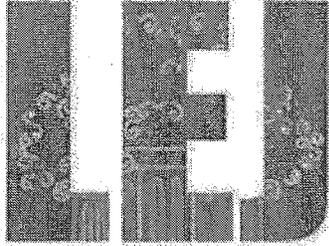
**H**AWAII'S affordable housing crisis means that we need innovative solutions now to preserve the livability of our islands. There simply is not sufficient affordable housing for the workers essential to our economy, especially housing with ready access to jobs, schools, and conveniences. Traditional affordable housing models alone cannot meet the needs of Hawai'i's changing population. New models such as micro-units, modular housing, expanded accessory dwelling units, and adaptive reuse should all be explored to meet Hawai'i's housing needs. The affordable housing crisis in Hawai'i has long-persisted, and it will continue unless we make a significant shift in our thinking about what makes a home.

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## Endnotes

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9. See "The Greenest Building: Quantifying the Environmental Value of Building Reuse," National Trust for Historic Preservation, 2011. [http://www.preservationnation.org/information-center/sustainable-communities/green-lab/lca/The\\_Greenest\\_Building\\_lowres.pdf](http://www.preservationnation.org/information-center/sustainable-communities/green-lab/lca/The_Greenest_Building_lowres.pdf).
10. Rural Studio. <http://www.ruralstudio.org/>.
11. Mayor Bloomberg Announces Winner of adaptNYC Competition to Develop Innovative Micro-unit Apartment Housing Model. Jan. 22, 2013. <http://www1.nyc.gov/office-of-the-mayor/news/032-13/mayor-bloomberg-winner-em-adapt-nyc-em-competition-develop-innovative-micro-unit#/3>.
12. Some assembly required: Kah San Chako Haws affordable housing project uses modular construction. Elliot Njus, The Oregonian. October 11, 2012. [http://www.oregonlive.com/front-porch/index.ssf/2012/10/some\\_assembly\\_required\\_kah\\_san.html](http://www.oregonlive.com/front-porch/index.ssf/2012/10/some_assembly_required_kah_san.html).

HAWAII APPLESEED CENTER



LAW  
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Hawai'i Appleseed Center for Law and Economic Justice is a nonprofit, 501(c) (3) law firm created to advocate on behalf of low-income individuals and families in Hawai'i on civil legal issues of statewide importance and to complement the assistance provided by other legal services providers in the state.

HPHA - Summary Waiting List Count of Active Applicants by Bedroom - OAHU Only

11/25/2014

Module	Island	Waiting List Name	Bedrooms						Total
			0	1	2	3	4	5	
1) Federal LIPH	Oahu	Oahu Cent Federal Elderly	43	244	6	0	0	0	293
		Oahu Cent Federal Family	0	407	440	183	52	0	1,082
		Oahu Hono Federal Elderly	310	1,539	165	3	1	0	2,018
		Oahu Hono Federal Family	1	1,624	1,650	762	201	32	4,270
		Oahu Leew Federal Family	1	519	806	339	126	1	1,792
		Oahu Wind Federal Family	0	483	566	262	74	0	1,385
	<b>Total</b>		<b>327</b>	<b>3,058</b>	<b>2,294</b>	<b>1,045</b>	<b>310</b>	<b>33</b>	<b>6,888</b>
2) State LIPH		Oahu Hono State Family	10	2,109	1,483	656	164	23	4,445
		Oahu State Elderly 401/404	641	329	39	8	4	1	1,022
		Oahu State Elderly 402	106	31	1	0	0	0	138
		Oahu State Elderly 403	196	108	2	0	1	0	307
	<b>Total</b>		<b>845</b>	<b>2,498</b>	<b>1,525</b>	<b>664</b>	<b>169</b>	<b>23</b>	<b>5,621</b>
3) Section 8		Oahu Federal Section 8	424	0	0	0	0	0	424
		Oahu Proj Federal Section 8	2	1,472	1,041	728	184	38	3,465
	<b>Total</b>		<b>426</b>	<b>1,472</b>	<b>1,041</b>	<b>728</b>	<b>184</b>	<b>38</b>	<b>3,858</b>
4) State RSP		Oahu State Rent Supplement	81	66	75	38	5	2	267
	<b>Total</b>		<b>81</b>	<b>66</b>	<b>75</b>	<b>38</b>	<b>5</b>	<b>2</b>	<b>267</b>
<b>Total</b>			<b>1,826</b>	<b>4,668</b>	<b>3,219</b>	<b>1,645</b>	<b>465</b>	<b>71</b>	<b>10,757</b>

APPENDIX 5

ACKNOWLEDGEMENT OF ADDENDA

RFQ OED-2015-05

Request for Qualifications for a Master Developer for the Mixed Income, Mixed Use  
Redevelopment of the HPHA's Administrative Offices and the Development of Low  
Income Public Housing Units on the Island of Oahu

The Respondent has received the following Addenda, receipt of which is hereby  
acknowledged:

Addendum Number: \_\_\_\_\_ Date Received: \_\_\_\_\_

\_\_\_\_\_  
(Respondent's Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed Name)

APPENDIX 6

NON-COLLUSIVE AFFIDAVIT

RFQ OED-2015-05

Request for Qualifications for a Master Developer for the Replacement of the HPHA's Administrative Offices and the Mixed Income, Mixed Use Development of Low Income Public Housing Units on the Island of Oahu

**(Prime Respondent)**

**State of** \_\_\_\_\_

**City/County of** \_\_\_\_\_

\_\_\_\_\_ Being duly sworn, deposes and says:  
(Name)

That he/she is \_\_\_\_\_  
(A partner or officer of the firm of, etc.)

The party making the foregoing submittal, that such submittal is genuine and not collusive or sham: that said Respondent has not colluded, conspired, connived or agreed, directly or indirectly with any respondent or person, to put in a sham offer or to refrain from participating, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the submittal offer price or affiant or any other respondent, or to fix any overhead profit or cost element of said offer price, or that any other respondent, or to secure any advantage against the Hawaii Public Housing Authority or any personal interest in the proposed contracts; and that all statements in said submittal are true.

Signature of

\_\_\_\_\_  
Respondent, if the respondent is an individual

\_\_\_\_\_  
Partner, if the respondent is a partnership

\_\_\_\_\_  
Officer, if the respondent is a corporation

**Subscribed and Sworn to before me**

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

\_\_\_\_\_



# Instructions to Offerors Non-Construction

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

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

## 6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

#### 7. Contract Award

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

(b) The HA may

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

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

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

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

#### 8. Service of Protest

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

#### 9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

# Certifications and Representations of Offerors Non-Construction Contract

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

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

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

- Black Americans       Asian Pacific Americans  
 Hispanic Americans       Asian Indian Americans  
 Native Americans       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:

# 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. 1/31/2017)

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 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.

## 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.

# General Conditions for Non-Construction Contracts

## Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2017)

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-5370C 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 II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

#### 1. Minimum Wages

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

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

#### 2. Withholding of funds

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

#### 3. Records

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

#### 4. Apprentices and Trainees

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

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

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

## 5. Disputes concerning labor standards

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

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

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

## 6. Contract Work Hours and Safety Standards Act

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

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

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

**(c) Withholding for unpaid wages and liquidated damages.**

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

**7. Subcontracts**

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

**8. Non-Federal Prevailing Wage Rates**

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

## Certification Regarding Debarment and Suspension

U.S. Department of Housing  
and Urban Development

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

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

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

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

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

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

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

#### Instructions for Certification (A)

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

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

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

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

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

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

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

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

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

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

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**Instructions for Certification (B)**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant

Date

Signature of Authorized Certifying Official

Title

APPENDIX 11  
RFQ OED-2015-05

Request for Qualifications for a Master Developer for the Redevelopment of the HPHA's  
Administrative Offices  
and the Mixed Income, Mixed Use Development of Low Income Public Housing Units on the Island of  
Oahu

## Submittal Checklist

The following is a checklist of items that it to be contained in the submittal.

- \_\_\_\_\_ 1. One original, 9 copies bound (such as 3-ring binder; tabbing of sections)
- \_\_\_\_\_ 2. One electronic copy in PDF format on disk/flash drive
- \_\_\_\_\_ 3. Includes consecutive numbering throughout the submittal
- \_\_\_\_\_ 4. Includes Numerical Outline, Titles/subtitles, Interested Offeror's Organization and RFQ No. on top right corner or each page
- \_\_\_\_\_ 5. Letter of Interest (includes exact legal name/original signature)
- \_\_\_\_\_ 6. Team Description
- \_\_\_\_\_ 7. Profile of the Development Team Members
- \_\_\_\_\_ 8. Technical Response: Vision of the Site and Neighborhood
- \_\_\_\_\_ 9. Technical Response: Financing Approach
- \_\_\_\_\_ 10. Technical Response: Business Terms
- \_\_\_\_\_ 11. Technical Response: Concept Renderings
- \_\_\_\_\_ 12. Community Participation
- \_\_\_\_\_ 13. MBE/WBE/Section 3 Participation Plan
- \_\_\_\_\_ 14. Non-Collusive Affidavit
- \_\_\_\_\_ 15. HUD Form 5369C Representations, Certifications, and Other Statements of Offerors
- \_\_\_\_\_ 16. HUD Form 2992 Certification Regarding Debarment and Suspension
- \_\_\_\_\_ 17. Submitted in sealed envelope

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