

APPENDIX V

Sample Diversity Forms

Contract and Subcontract Activity

U.S. Department of Housing and Urban Development

OMB Approval No. 2535-0117 (exp. 1/3/12)

Public Report Burden for this collection of information is estimated to average 50 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. This information is voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Executive Order 12421 dated July 14, 1983, directs the Minority Business Development Plans shall be developed by each Federal Agency and that these annual plans shall establish minority business development objectives. The information is used by HUD to monitor and evaluate MBE activities against the total program activity and the designated minority business enterprise (MBE) goals. The Department requires the information to provide guidance and oversight for program for the development of minority business enterprise concerning Minority Business Development. If the information is not collected HUD will not be able to establish meaningful MBE goals nor evaluate MBE performance against these goals. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.

Privacy Act Notice - The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. It will not be disclosed or released outside the United States Department of Housing and Urban Development without your consent, except as required or permitted by law.

1. Grant/Project/Contract/Developer/Sponsor/Title		Check if PHAD		2. Location (City, State, ZIP Code)		5.		6.	
3a. Name of Contact Person		3b. Phone Number (Incl. Area Code)		4. Reporting Period O Oct. 1 - Sept. 30 (Annual-FY)		Program Codes (Incl. codes for CPD programs)		Dist. 6 - Print in Field Only	
See explanation of codes at bottom of page									
Use a separate sheet for each program code									
Grant/Project Number or HUD Case Number or other identifier of property, subdivision, dwelling unit, etc.	Amount of Contract or Subcontract	Type of Trade Code (See below)	Contractor or Subcontract Business Code (See below)	Woman Owned Business (Yes or No)	Prime Contractor Identification Number	Subcontract Identification Number	7. Contractor/Subcontractor Name and Address		
							Name	Street	City

- | | | | |
|---|---|---|---|
| <p>CPD:</p> <ul style="list-style-type: none"> 1 = New Construction 2 = Education/Training 3 = Other | <p>7c. Type of Trade Codes:</p> <ul style="list-style-type: none"> 1 = New Construction 2 = Subs. Rehab. 3 = Repair 4 = Service 5 = Project Manag. 6 = Professional 7 = Tenant Services 8 = Education/Training 9 = Arch./Engrg. Appraisal 0 = Other | <p>7d. Racial/Ethnic Codes:</p> <ul style="list-style-type: none"> 1 = White Americans 2 = Black Americans 3 = Native Americans 4 = Hispanic Americans 5 = Asian/Pacific Americans 6 = Has 1/8 or more Jewish | <p>5. Program Codes (Complete for Housing and Public and Indian Housing programs only)</p> <ul style="list-style-type: none"> 1 = All insured, including Section 8 2 = Flexible Subsidy 3 = Section 8 Noninsured, Non-HFDA 4 = Insured (Management) 5 = Section 202 6 = HUD-Held (Management) 7 = Public/Indian Housing 5 = Asian/Pacific Americans |
|---|---|---|---|

Previous editions are obs

This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multifamily Insured and Noninsured, Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD-60002 to report employment and training opportunities data. Form HUD-2516 is to be

completed for public and Indian housing and most community development programs. Form HUD-60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3.

A Section 3 contractor/subcontractor is a business concern that provides economic opportunities to low and very low-income residents of the metropolitan area (or nonmetropolitan county), including a business concern that is 51 percent or more owned by low- or very low-income residents; employs a substantial number of low- or very low-income residents; or provides subcontracting or business development opportunities to businesses owned by low- or very low-income residents. Low- and very low-income residents include participants in Youthbuild programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary

may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's finding that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons means low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's finding that such variations are necessary because of unusually high or low family incomes.

Submit three (3) copies of this report to your local HUD Office within ten (10) days after the end of the reporting period you checked in item 4 on the front.

Complete item 7h only once for each contractor/subcontractor on each semi-annual report.

Enter the prime contractor's ID in item 7f for all contracts and subcontracts. Include only contracts executed during this reporting period. PHAs/HAs are to report all contracts/subcontracts.

Community Development Programs

- 1. Grantee: Enter the name of the unit of government submitting this report.
- 3. Contact Person: Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.
- 7a. Grant Number: Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.
- 7b. Amount of Contract/Subcontract: Enter the dollar amount rounded to the nearest dollar. If subcontract ID number is provided in 7f, the dollar figure must be for the subcontract only and not for the prime contract.
- 7c. Type of Trade: Enter the numeric code which best indicates the contractor's/subcontractor's service. If subcontract ID number is provided in 7f, the type of trade code must be for the subcontract only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education/training activities.
- 7d. Business Racial/Ethnic/Gender Code: Enter the numeric code which indicates the racial/ethnic/gender character of the owner(s) and contractor(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontract ID number is provided, the code would apply to the subcontractor and not to the prime contractor.
- 7e. Woman Owned Business: Enter Yes or No.
- 7f. Contractor Identification (10) Number: Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.
- 7g. Section 3 Contractor: Enter Yes or No.
- 7h. Subcontractor Identification (10) Number: Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

receiving contract/subcontract activity only one time on each report for each Multifamily Housing Programs

- 1. Grantee Owner: Enter the name of the unit of government, agency or mortgage lender submitting this report.
- 3. Contact Person: Same as item 3 under CPD Programs.
- 4. Reporting Period: Check only one period.
- 5. Program Code: Enter the appropriate program code.
- 7a. Grant/Project Number: Enter the HUD Project Number or Housing Development Grant or number assigned.
- 7b. Amount of Contract/Subcontract: Same as item 7b under CPD Programs.
- 7c. Type of Trade: Same as item 7c under CPD Programs.
- 7d. Business Racial/Ethnic/Gender Code: Same as item 7d under CPD Programs.
- 7e. Woman Owned Business: Enter Yes or No.
- 7f. Contractor Identification (ID) Number: Same as item 7f under CPD Programs.
- 7g. Section 3 Contractor: Enter Yes or No.
- 7h. Subcontractor Identification (10) Number: Same as item 7h under CPD Programs.
- 7i. Section 3 Contractor: Enter Yes or No.
- 7j. Contractor/Subcontractor Name and Address: Same as item 7j under CPD Programs.

Public Housing and Indian Housing Programs

PHAs/HAs are to report all contracts/subcontracts. Include only contracts executed during this reporting period.

- 1. Project Owner: Enter the name of the unit of government, agency or mortgage lender submitting this report. Check box as appropriate.
- 3. Contact Person: Same as item 3 under CPD Programs.
- 4. Reporting Period: Check only one period.
- 5. Program Code: Enter the appropriate program code.
- 7a. Grant/Project Number: Enter the HUD Project Number or Housing Development Grant or number assigned.
- 7b. Amount of Contract/Subcontract: Same as item 7b under CPD Programs.
- 7c. Type of Trade: Same as item 7c under CPD Programs.
- 7d. Business Racial/Ethnic/Gender Code: Same as item 7d under CPD Programs.
- 7e. Woman Owned Business: Enter Yes or No.
- 7f. Contractor Identification (ID) Number: Same as item 7f under CPD Programs.
- 7g. Section 3 Contractor: Enter Yes or No.
- 7h. Subcontractor Identification (10) Number: Same as item 7h under CPD Programs.
- 7i. Section 3 Contractor: Enter Yes or No.
- 7j. Contractor/Subcontractor Name and Address: Same as item 7j under CPD Programs.

7i Section 3 Contractor: Enter Yes or No.

7j. Contractor/Subcontractor Name and Address: Enter this information for each. Previous editions are obsolete.

7 = CDBG-Entitlement

8 = CDBG-State
Administered
9 = Other CD Programs
10 = Other Housing
Programs

Page 1 of 2

form HUD-60002 (6/2001)
ref 24 CFR 135

Part II: Contracts Awarded

1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$	
B. Total dollar amount of contracts awarded to Section 3 businesses	\$	
C. Percentage of the total dollar amount that was awarded to Section 3 businesses		%
D. Total number of Section 3 businesses receiving contracts		

2. Non-Construction Contracts:

A. Total dollar amount of all non-construction contracts awarded on the project/activity	\$	
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$	
C. Percentage of the total dollar amount that was awarded to Section 3 businesses		%
D. Total number of Section 3 businesses receiving non-construction contracts		

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, part _____ those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Part _____ pated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program, which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other; describe below _____

Public reporting burden for this collection of information is estimated to average 2 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. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very low- income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as a self-monitoring tool. The data is entered into a data base and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The report requirements do not contain sensitive questions. Data is cumulative, personal identifying information is not included.

Form HUD-60002, Section 3 Summary Report Economic Opportunities for Low- and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any public and Indian Housing programs that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing and community development assistance in excess of \$200,000 expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to contracts and subcontracts in excess of \$100,000 awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts which are to be completed for all programs covered by Section 3. Part I relates to employment and training. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F) or the number of new hires utilized on the Section 3 covered project (columns B, C and F). Part II of the form relates to contracting, and Part III summarizes recipients' efforts to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons. A recipient of Section 3 covered assistance shall submit two copies of this report to the local HUD Field Office. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.

HUD Field Office: Enter the Field Office name forwarding the Section 3 report.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.

Submit two (2) copies of this report to the HUD Field Office of Fair Housing and Equal Opportunity, Program Operations and Compliance Center Director, at the same time the performance report is submitted to the program office. For those programs where such a report is not required, the Section 3 report is submitted by January 10. Include only contracts executed during the reporting period specified in item 8. PHAs/HAs are to report all contracts/subcontracts.

* The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.

9. Program Name: Enter the name of the HUD Program corresponding with the "Program Code" in number 8.

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Column B: Enter the number of new hires for each category of workers identified in Column A in connection with this award. New Hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column C: Enter the number of Section 3 new hires for each category of workers identified in Column A in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column D: Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

Column E: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Column F: Enter the number of Section 3 residents that were employed and trained in connection with this award.

Part II: Contract Opportunities

Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contacts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contacts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts - Self-explanatory

smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Agency Name: _____	Agency Type: _____	SIC Code: _____	R2C-30 AU ID-11 (HUD Use Only)
Period Covered Check One and Enter Year(s)			
D Period 1: October 1, _____ to March 31, _____		O Period 2: April 1, _____ to September 30, _____	
Agency Contact Person: _____		Agency Code: P110111E (rmt)	

PART I - CONTRACTING ACTIVITY -
Part I is ONLY for projects awarded during the reporting period.

1. Number of prime contracts subject to the Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWSSA) awarded this period.
 Note: Do not include contracts included in previous semi-annual reports.

D

2. Total dollar amount of prime contracts reported in item 1 above.

\$ _____

3. List for each contract awarded this period:

Project Name/Number	Contract Amount	Wage Decision Number	Wage Decision Lock-In Date
EXAMPLE: Club R novation # CD64005-6	\$0,000,000.00	FL0401 3, 821101 Building	bid date - Lock

Use additional pages if necessary.

WHAT IS THE LOCK-IN DATE? For more information, see the "Lock-In" section of the DBRA. The lock-in date is the date of the award of the contract. However, if the contract is awarded to a contractor who is a subcontractor of a contractor who has a lock-in date, the lock-in date of the subcontractor shall apply. See 29 CFR 1.134-1.

WHAT IT ISN'T: Do not use the lock-in date of the contractor who is a subcontractor of a contractor who has a lock-in date. See 29 CFR 1.134-1.

Semi-Annual Labor Standards Enforcement Report - Local Contracting Agencies (HUD Programs)	U.S. Department of Housing and Urban Development Office of Labor Relations	HUD FORM 4710 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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Agency Name:	F.L.C. Type:	Status:	LR200 Agency ID # (HUD Use Only)
Period Covered: Check One and Enter Year(s)			
D Period 1: October 1, _____ to March 31, _____		D Period 2: April 1, _____ to September 31, _____	
Agency Contract P#(s):		Other Contract P#(s):	

PART II ENFORCEMENT ACTIVITY -
 Pertains to all projects, not just contract(s) awarded during the reporting period.

4. Number of employers against whom complaints were received (list employer(s) and projects involved below):

D

Employer	Project(s)
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5. (a) Number of cases (employers) referred to HUD Labor Relations for investigation or §5.11 hearing (list referrals below):

D
D

(b) Number of cases (employers) referred to the Department of Labor (DOL) for investigation or §5.11 hearing (list referrals below):

Employer	Project	HUD or DOL	Invest. Or Hearing
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6. (a) Number of workers for whom wage restitution was collected/dispensed:
Report only once. If you provide a list of referred workers for whom restitution was collected or §5.11 hearing (list workers when funds are disbursed. Include all cases involving restitution, whether or not directly by the employer.

D

(b) Total amount of straight time wage restitution collected/dispensed during this period:
Report only once. If you report funds collected or disbursed, include restitution amounts paid directly by the employer as reimbursement on certified payrolls.

\$

(c) Total amount of CWHHSA overtime wage restitution collected/dispensed during this period:
Report only once. If you report restitution collected, do not include U1a disbursement. Include all amounts paid directly by the employer as reimbursement on certified payrolls.

\$

(d) Total amount of liquidated damages collected:

\$

Definitions and Guidance

Part I - Contracting Activity - This part concerns only contracts that were awarded during this period. Do not include contracts that were awarded prior to this period even though the contracts may still be under award. Do include work subject to purchase order or other form of agreement, even if there is no formal contract award.

Item 1. Enter the total number of prime contracts subject to DBRA/JCWHSSA awarded during this period.
Track contracts by award or start of construction - do not track by bid opening date. Public Housing Authorities (PHAs), Tribally-designated Housing Entities (TDHEs), Indian Housing Authority (IHAs): Include force account work that is subject to DBRA/HS SA.

Item 2. Enter the total dollar amount of the contracts and/or PHA/TDHE/IHA force account work reported in Item 1.

PHAS	TDHEs	IHA
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Semi-Annual Labor Standards Enforcement Report - Local Contracting Agencies (HUD Programs)	U.S. Department of Housing and Urban Development Office of Labor Relations.	HUD FORM 47101 OCT 1978 - REV. 10/1/81 M. J. L. P. G. C.
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Item 3 List each project/contract name, brief descriptive information, number or unique identifier, dollar amount, the wage decision and modification number in the contract, bid opening date, contract award date, and construction start date. Identify which milestone date triggered the wage decision (lock-in date, bid opening date, contract award date or start of construction date, as appropriate). If the project was not subject to sealed bids, indicate "NA" for bid opening date and proceed to identify the other date.

Part II - Enforcement Activity - This part concerns all enforcement activity no matter when the contract was awarded or construction began.

Item 4 Enter the number of employers (contractors, subcontractors, low-tier subcontractors) against whom complaints were received during the report period. List the names of the employers against whom complaints were received and the projects involved.

Item 5 Enter the number of employers that were referred to HUD Labor Relations or DOL staff for investigations, for hearings on appeal and/or debarment hearings. List the employer, project, and agency (HUD or DOL) to which the case was referred, and the reason for referral - investigation, appeal hearing (DOL Regulations 29 CFR Part 5, Section §5.11) and/or debarment (DOI Regulations 29 CFR Part 5, Section §5.12) hearing.

Item 6 Enter information relative to wage restitution that was collected and/or disbursed during the report period. This includes restitution disbursed by the agency; restitution reported on certified payroll correction reports; amounts collected but not disbursed because workers could not be found. Report straight time wage restitution separate from Contract Work Hours and Safety Standards Act (CWSSA) overtime wage restitution. Also list liquidated damages collected for CWSSA overtime violations.

**PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN
REQUIREMENTS AND PROCEDURES
FOR CONTRACTS WITH
HOUSING TRUST FUND CORPORATION**

I. General Provisions

- A. The Corporation is required to implement the provisions of New York State ("State") Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Housing Trust Fund Corporation ("Corporation"), to fully comply and cooperate with the Corporation in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, State or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to section VII of this Appendix II or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this procurement, the Corporation hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on this Contract and achieving the Contract Goals established in section III-A, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<http://www.empire.state.ny.us/MWBE/directorySearch.html>.

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on this Contract.

C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. In accordance with section 3 16-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a failure constitutes a breach of Contract and the Contractor shall be liable to the Corporation for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The Contractor shall submit an EEO policy statement (Form PROC-8) to the Corporation within seventy two (72) hours after the date of the notice by Corporation to award the Contract to the Contractor.
 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the Corporation may provide the Contractor or Subcontractor a model statement (see Form PROC-4 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national

origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

- d. The Contractor will include the provisions of sections (a) through (c) of this subsection and paragraph "E" of this section, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Contract.

C. Form PROC-1- Staffing Plan

To ensure compliance with this section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of this Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the Contract.

D. Form PROC-5 - Workforce Employment Utilization Report ("Workforce Report")

1. Once a Contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Corporation of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
Reports should be submitted by email to: MWBE_EEOCreports@stormrecovery.ny.gov.
2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the subject Contract. When the workforce to be utilized on the Contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form PROC-2) either prior to, or at the time of, the execution of this Contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on this Contract pursuant to the prescribed MWBE goals set forth in section III-A of this Appendix II.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of this Contract. Upon the occurrence of such a material breach, the Corporation shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. For Waiver Requests Contractor should use Form PROC-3 - Waiver Request.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Corporation shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the Corporation, upon review of the Utilization Plan and updated Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Corporation may issue a notice of default to the Contractor. The Contractor must respond to the notice of default within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form PROC-6) to the Corporation by the 10th day following each end of quarter (i.e., March 31st, June 30th, September 30th, and December 31st) over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Reports should be submitted by email to: MWBE_EEOCreports@stormrecovery.ny.gov.

VII. Liquidated Damages - MWBE Participation

- A. Where the Corporation determines that Contractor is not in compliance with the requirements of this Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Corporation liquidated damages.

- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Agency, Contractor shall pay such liquidated damages to the Corporation within sixty (60) days after they are assessed by the Corporation unless prior to the expiration of such sixtieth (60th) day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to subdivision 8 of section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Corporation.

ALL FORMS ARE ATTACHED BELOW

EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN
 Submit with Bid or Proposal - Instructions on page 2

Solicitation/Program Name	Report includes: <input type="checkbox"/> Workforce to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total workforce
Off Name:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor Subcontractor's name _____
Off Address:	

Enter the total number of employees for each classification in each of the EEO Job Categories identified

EEO-Job Category	Total Work force	Workforce by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran			
		Total Male (M)	Total Female (F)	Wh		Black		Hispanic		Asian		Native American		(M)	(F)	(M)	(F)
				(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)				
Officials/Administrators																	
Professionals																	
Technicians																	
Service Maintenance Workers																	
Office/Clerical																	
Skilled Craft Workers																	
Paraprofessionals																	
Protective Serv Workers																	
Totals																	

PREPARED BY (Signature):	TELEPHONE NO.:	DATE:
	EMAIL ADDRESS:	
NAME AND TITLE OF PREPARER (Print or Type):		SUBMIT COMPLETED WITH BID OR PROPOSAL

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's or subcontractor's total work force, the Offeror shall complete this form for the contractor's or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number or RFP number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Offerors' total workforce.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading 'Workforce by Gender'
6. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the Designated Contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male (M) or Female (F)