

## RFP Document

### REQUEST FOR PROPOSALS (RFP): PROFESSIONAL BANKING SERVICES

BY

STANISLAUS REGIONAL HOUSING AUTHORITY  
1701 Robertson Rd. MODESTO, CA  
95351

RFP Issued: June 3, 2021  
Questions Deadline: 10:00 a.m. on June 16, 2021  
Proposal Deadline: 2:00 p.m. on June 30, 2021



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### INTRODUCTION & BACKGROUND

The Stanislaus Regional Housing Authority(hereinafter, "HA") is a public entity that was formed in 1949 to provide federally subsidized housing and housing assistance to low-income families, within the county.

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



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**RFP INFORMATION AT A GLANCE**

AUTHORITY CONTACT PERSON	Mary Ramirez, Asset Manager <a href="mailto:mramiez@stancoha.org">mramiez@stancoha.org</a>
HOW TO OBTAIN THE RFP DOCUMENTS ON THE INTERNET	1. Access <a href="http://www.stancoha.org">www.stancoha.org</a>
QUESTIONS DEADLINE	10:00 a.m., PDT, on June 16, 2021. Questions to be submitted to <a href="mailto:quotes@stancoha.org">quotes@stancoha.org</a>
HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL SUBMITTAL	1. As instructed within Section 3.4 of this RFP document, submit 1 original and 3 copies of your "hard copy" proposal to the Authority Office 1701 Robertson Rd., Modesto 95351
PROPOSAL SUBMITAL RETURN & DEADLINE	4:00 p.m., PDT, on June 30, 2021, at the Authority Office located at 1701 Robertson Rd., Modesto, CA 95351
ANTICIPATED APPROVAL BY AUTHORITY BOARD OF COMMISSIONERS	November, 2021

**1.1 AUTHORITY's RESERVATION OF RIGHTS:**

- 1.2 The Authority reserves the right to reject any or all proposals, to waive any informalities in the RFP process, or to terminate the RFP process at any time if deemed by the Authority to be in its best interest.
- 1.3 The Authority reserves the right not to award a contract pursuant to this RFP.
- 1.4 The Authority reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon ten (10) days written notice to the successful proposer(s).
- 1.5 The Authority reserves the right to determine the work schedule and locations that the successful proposer(s) shall provide the services described in this RFP.
- 1.6 The Authority reserves the right to retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of the Authority.
- 1.7 The Authority reserves the right to negotiate the fees proposed by the proposer entity as described in section 5.5 of this RFP.
- 1.8 The Authority reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including, but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested services.
- 1.9 The Authority shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- 1.10 The Authority shall reserve the right to, at any time during the RFP or contract process, prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.



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**2.0 SCOPE OF PROPOSAL/TECHNICAL SPECIFICATIONS:**

The HA is seeking proposals from qualified, licensed and bonded entities to provide banking services. The work plan or program description submitted under the Profile of Firm Form (Tab #3 of this RFP) shall fully detail how the proposer intends to provide such services as follows:

Automated Clearing House (ACH): The HA currently initiates landlord payments via ACH files transmitted electronically for its Housing Choice Voucher Program. The estimated monthly ACH file amount is \$2.2M. The response to RFP should describe the financial institution's ability to provide the proposed services including:

- Method by which HA can submit ACH files or initiate ACH via bank software
- Pre-notification policy and cost
- Funding requirements for the ACH payment file
- Security measures for ACH initiative/origination and ACH reception (ACH filters and blocks)

Account Statements (AS): Within five (5) business days of the end of each calendar month, provide the HA with monthly statements and account analysis showing overall activity for each of the individual HA accounts. The response to the RFP should provide:

- The bank's Earning's Credit Rate and how it is calculated and applied to the monthly analysis statement
- The current FDIC rate and how it is computed and charged
- The Account Analysis Fee Proposal using both compensating balances and/or a combination of both fees and compensating balances.

Collateral Securities (CS): Collateralize all HA funds and investments over the Federal Deposit Insurance Corporation (FDIC) limits pursuant to all applicable California statutes and HUD regulations. ***Please specifically address that your financial institution will sign the required HUD Form 51999 (General Depository Agreement) and Rural Development - Multi-Family Housing Deposit Agreement at NO additional charge to the HA.***

Demand Deposit Account (DDA): Pertains to checking accounts. Maintains eleven (23) checking accounts for HA programs to facilitate funds received from all Federal and State agencies. The HA also has six (16) Money Market Accounts (MMA).

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

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

Investment: Be able to provide a wide range of investment services. The HA currently invests excess funds in the State of California's Local Agency Investment Fund (LAIF).

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

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



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Payroll Direct Deposits: Payroll direct deposit service is provided by a third-party contractor. The bank shall, at any local branch, honor all Authority payroll checks presented by the payee with proper identification and at no charge to the HA employee.

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

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

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

Stop Payments (SP): In a timely and appropriate manner, facilitate all stop payment requests received from the HA. Must have capability to enter via the Internet. Respondent should provide information on this service, such as:

- Online stop payment services (initiation and renewal)
- Confirmation requirements
- Duration of a stop payment (e.g., six months or in perpetuity) and renewal processing options

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

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

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

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

Current Accounts: The HA currently has the following 39 accounts:

Bank Accounts	Average Daily Balance	Number of Accounts
Checking Accounts	\$6,839,761	23
Money Market Accounts	\$6,066,963	16

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

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



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Agency Investment Policy: By submitting a proposal, all proposers agree to comply with the HA's Investment Policy attached herein as Attachment H of this RFP document.

In addition to normal services provided for accounts, HA would expect the following:

1. Electronic transmission to/from HA computers, by internet access of the following items:
  - a. Inquiry of status of checks
  - b. Request and confirmation of stop payments
  - c. Transfer of funds between HA accounts
  - d. Transfer of funds to other financial institutions
  - e. Direct deposit of landlord payments. ACH credit should be scheduled to appear on the payees' accounts on the day of the submission. HA software must be able to interface with ACH software.
  - f. Other various payments or receipts by ACH such as HUD electronic payments and accounts payable payments.
  - g. View and print paid checks and deposits
2. Acknowledgement of all ACH transfers on the date received. Advice narrative provided by remitter should be provided no later than the next business day after the night that the ACHs are posted.
3. Printed two-part encoded deposit slips for each deposit account.
4. Same day processing of stop payment orders made by electronic transmission.
5. Prompt delivery of bank statements after the last day of each month (not later than 5 business days).
6. Phone or e-mail notification of discrepancies in deposits.
7. Designation of an account manager, who will be a single source of point of contact for all inquiries and problem resolution.
8. Ability to make ACH/EFT vendor payments.
9. Deposit slips printing fees, endorsement stamps, check printing charges (2 accounts), NSF fees and courier service be Included in analysis.
10. Sign and execute HUD required General Depository Agreement (HUD Form 51999) and Rural Development-Multi-Family Housing Deposit Agreement at no charge.

### **3.1 PROPOSAL FORMAT:**

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

- **Tab 1, Form of Proposal:** This form is Attachment A of this RFP document. This one-page form must be fully completed, executed where provided and submitted under this tab as a part of the proposal submittal.



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- **Tab 2, Form HUD 5369-A & C (11/92), *Representations, Certifications, and other Statements of Bidders*:** This form is Attachment B of this RFP document. This six-page form must be fully completed, executed where provided and submitted under this tab as a part of the proposal submittal.
- **Tab 3, Profile of Firm Form:** The Profile of Firm Form is Attachment C of this RFP document. This two-page form must be fully completed, executed, and submitted under this tab as a part of the proposal submittal. NOTE: As instructed, place the required resumes under Tab #5 (below).
- **Tab 4, Proposed Services:** As more fully detailed within Section 2.0, *Scope of Proposal/Technical Specifications* of this RFP document, the proposer shall, at a minimum, clearly detail the information submitted under this tab as follows:
  - A complete description of the services that the proposer intends to provide;
  - How staff are retained, screened, trained and monitored;
  - The proposed “Schedule of Fees” as defined in Section 3.2 of this RFP;
  - The proposed quality control program;
  - An explanation and copies of forms that will be used and reports that will be submitted.

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



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- **Tab 7, Subcontractor/Joint Venture Information (Optional Item):** The proposer shall identify whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the proposal is a joint venture with another firm. Please remember that all information required from the proposer under the proceeding tabs must also be included for any major subcontractors (10% or more) or from any joint venture.
  - **Tab 8, Section 3 Business Preference Documentation (Optional Item):** For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Documentation Form attached hereto as Attachment D and any documentation required by that form. If the proposer does not claim any Section 3 preference, please place hereunder a statement that "NO SECTION 3 BEING CLAIMED".
  - **Tab 9, Declared Earnings Credit Rate (ECR):** The proposer must submit their Declared Earnings Credit Rate information for the past six (6) months on the form attached as Attachment I of this document.
  - **Tab 10, Other Information (Optional Item):** The proposer may include hereunder any other general information that the proposer believes is appropriate to assist the Authority in its evaluation. If no pertinent information is to be placed under this tab, please place hereunder a statement that "NO INFORMATION IS BEING PLACED HEREUNDER".
  - If no pertinent information is to be placed under any of the tabs (especially the "Optional" tabs), please place thereunder a statement such as "NO INFORMATION IS BEING PLACED UNDER THIS TAB" or "THIS TAB LEFT INTENTIONALLY BLANK".
- 3.3** The Authority is requiring proposers to submit the "Schedule of Fees" (brochures are acceptable), which may become part of the winning proposer's contract. Proposers shall submit the "Schedule of Fees" at a minimum of the following:





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**Schedule of Fees Submittal:**

Item #*	Service Description	Qty**	U/M***
1	Checks Paid	14,826	Each
2	Deposits	2,535	Each
3	Deposit Items	11,287	Each
4	Deposit Adjustments	2	Each
5	ACH Credit/Debit	15,976	Each
6	ACH Filter Exception Item	13	Each
7	Returned Deposited Item	34	Each
8	FDIC Assessment	12	Months
9	Monthly Account Maintenance (All 39 Accounts)	12	Months
10	Stop Payments Online	70	Each
11	Courier Service; 3/week, 1612 Sisk Rd	156	Each
12	Outgoing Wire Transfer	8	Each
13	ACH/Wire Module	12	Months
14	ACH Origination	12	Months
15	Reproduction Copies	2	Each
16	Currency Deposit Per \$1	2374	Each
17	Positive Pay (3 Accounts)	36	Each
18	Positive Pay ACH (3 Accounts)	36	Each
19	Positive Pay Per Exception	41	Each
20	Extended History Retention (2 Accounts)	24	Each
21	Internet Access Fees	12	Months
22	Other (Annualize any other fees and costs and enter here	1	Each
23	Payroll Processing Pass-thru charges	26	Each

\*\*Estimated Annual Usage

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

- 3.4 Proposal Submission:** All proposals must be submitted, time-stamped, and received in the Authority Business Office by no later than the submittal deadline stated or within any ensuing addendum. A total of one (1) original signature copy (marked "ORIGINAL") and three (3) exact copies of the proposal submittal, each complete with cover and extending tabs, shall be placed, unfolded, in a sealed package and addressed to:

Mary Ramirez  
Asset Manager  
RFP #2021-24  
1701 Robertson Rd. Modesto, CA 95351

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



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- 3.5 Submission Conditions:** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED. Proposers are not allowed to change any requirements or forms contained herein, either by making or entering on these documents, or the documents submitted, any revisions or additions. If any such additional marks, notations or requirements are entered on any of the documents that are submitted to the Authority by the proposer, that proposal may be invalidated. If, after accepting such a proposal, the Authority decides that any such entry has not changed the intent of the proposal, the Authority may accept the proposal and the proposal shall be considered by the Authority as if those additional marks, notations or requirements were not entered.
- 3.6 Submission Responsibilities:** It shall be the responsibility of each proposer to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth in all applicable documents issued by the Authority, including the RFP document, the documents listed within the RFP, and any addenda and required attachments submitted by the proposer. By virtue of completing, signing and submitting the completed documents, the proposer is stating his/her agreement to comply with the all conditions and requirements set forth in those documents. Written notice from the proposer not authorized in writing by the Authority to exclude any of the Authority requirements contained within the documents may cause the proposer to not be considered for award.
- 3.7 Proposer's Responsibility-Contact with the Authority:** It is the proposer's responsibility to address all communication and correspondence pertaining to this RFP process to the Authority Business Office only. Proposers may not make inquiry or communicate with any other Authority staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for the Authority to not consider a proposal submittal received from any proposer who may have not abided by this directive.
- 3.8 Attachments:** Are all provided with this RFP:
- Attachment A: Form of Proposal;
  - Attachment B: Form HUD 5369-B (8/93), Instruction of Offerors Non-Construction ;
  - Attachment C: Profile of Firm Form;
  - Attachment D: Section 3 Business Preference Documentation;
  - Attachment E: Form HUD 5370-C1 (01/2014), *General Conditions for Non-Construction Contracts, Section 1*;
  - Attachment F: Sample Contract Form;



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Attachment G: Insurance Requirements for Consultants;

Attachment H: Investment Policy;

Attachment I: Declared Earnings Credit Rate;

**4.1 PROPOSAL EVALUATION:**

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

- Proposals shall be reviewed, evaluated, and ranked by a committee composed of Authority staff and guest evaluation committee members from other local public agencies. If a guest evaluator is used as a reference, the guest evaluator must remove themselves from the evaluation of the firm being reviewed.
- **Restrictions:** All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on the Authority evaluation panel. Similarly, all persons having ownership interest in and/or contract with a proposing entity will be excluded from participation on the Authority's evaluation panel.
- An evaluation committee shall review and rank the submittals based on the evaluation criteria in Section 4.2 of this RFP. The top-rated firms shall be short-listed and invited to an interview with Authority staff. Based on the submittals and price negotiation results, proposer(s) shall be recommended to the Authority's Executive Director for award of a Professional Banking Services contract.
- The Authority recognizes that the selected service proposer(s) may not have experience or capacity to provide professional services in all areas. In such event, the firm may supplement their capabilities by teaming with sub-consultants. In such cases, proposers shall identify these sub-consultants, as their expertise will be considered by the Authority in addition to the proposer's capabilities as described in the evaluation criteria in Section 4.2 of this RFP.

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



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NO.	MAX POINT VALUE	CRITERION DESCRIPTION
1	15 points	<b>Proposed Costs Charged to the Authority</b>
2	25 points	<b>Net Earnings Allowance less Service Fees</b> - response will be compared for the highest net earnings. This category is defined by deducting costs from earned credits and interest.
3	20 points	<b>Quality of Service</b> - Responses will be compared to determine services and technologies available, as well as the convenience of branch offices. Structure of customer service will be taken into consideration.
4	20 points	<b>Meets banking requirements of the Authority</b> - Responses will be compared to determine how effectively the general banking needs of the Agency are met by the services provided. The past performance of the proposer on prior work of the same or similar nature, based on the letters of reference and/or client lists submitted, and based upon the results of any consultation that the Authority chooses to conduct with such.
5	20 points	<b>Specialized Knowledge</b> - Responses will be compared for display of understanding of the special needs of the Authority. Responses will be compared to determine the experience of personnel assigned to the Authority and proposer experience providing services for other Housing Authorities and Public Agencies.
	100 points	<b>Maximum Points (before Section 3 below)</b>

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

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

**5.1 CONTRACT AWARD:**

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

**5.2.1** Upon final completion of the proposal evaluation process, the evaluation panel will forward the completed evaluations to the designated Authority staff. The Authority designated staff will formulate and forward to the Authority's Executive Director for consideration and approval of a written award recommendation. The Executive Director may choose to approve the award or may approve staff to take the award recommendation to the Authority's Board of Commissioners at a scheduled board meeting for approval. If so, the Authority's Board will then make its determination whether or not to follow the panel's recommendation. If the recommendation is followed and the top-rated proposer is approved for award. Contract price negotiations may, at the Authority's option, be conducted prior to or after the Board's approval.



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- 5.3 Contract Conditions:** The following provisions are considered mandatory conditions of any contract award made by Authority pursuant to this RFP:
- 5.3.1 Contract Form:** The Authority will not execute a contract on the successful proposer's form. Contracts will only be executed on the Authority's form (please see Sample Contract which is included as Attachment F of this RFP document). By submitting a proposal, the successful proposer agrees to do so. Please note that the Authority reserves the right to amend this form as the Authority deems necessary. However, the Authority will consider any contract clauses that the proposer wishes to include. The failure of the Authority to include such clauses does not give the successful proposer the right to refuse to execute the Authority's contract form. It is the responsibility of each prospective proposer to notify the Authority in writing prior to submitting a proposal, of any contract clause that the proposer is not willing to include in the final executed contract and abide by. The Authority will consider and respond to such written correspondence, and if the prospective proposer is not willing to abide by the Authority's response (decision), then that prospective proposer shall be deemed ineligible to submit a proposal.
- 5.3.2 Assignment of Personnel:** The Authority shall retain the right to demand and receive a change in personnel assigned to the work if the Authority believes that such change is in the best interest of the Authority and the completion of the contracted work. Contractor shall select and employ the replacement personnel.
- 5.3.3 Unauthorized Sub-Contracting Prohibited:** The successful proposer shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the Authority's Executive Director. Any purported assignment of interest or delegation of duty, without the prior written consent of the Executive Director shall be void. It may result in the cancellation of the contract with the Authority, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract; either as determined by the Executive Director.
- 5.4 Contract Period:** The Authority anticipates that it will initially award a contract for a period of one (1) year. At the option of the Authority, it may be extended for four (4) additional one-year extension periods. However, the Authority shall retain the right to contract with the successful proposer for any amount of time that, in the opinion of the Authority, it takes to conclude any matter that the successful proposer may begin work on within the noted five (5) year contract period.



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- 5.5 Licensing and Insurance Requirements:** Prior to award (but not prior to submission of the proposal) the successful proposer will be required to provide:
- 5.5.1** The contractor shall provide to the Authority with copies of any required current City, State and/or Federal licenses. Failure to maintain these licenses in a current status during the term(s) of this contract shall constitute a material breach thereof.
  - 5.5.2** If applicable, a copy of the proposer's license issued by the State of California licensing authority allowing the proposer to provide the services detailed herein.
  - 5.5.3** The requested related information shall also be entered where provided for on the Profile of Firm Form. **DO NOT ATTACH COPIES TO THE PROPOSAL SUBMITTED.** The Authority will garner the necessary certificates from the successful proposer prior to contract execution.
- 5.6 Right to Negotiate Final Fees:** The Authority shall retain the right to negotiate the amount of fees that are paid to the successful proposer. The fees proposed by the top-rated proposer may, at the Authority's option, be the basis for the beginning of negotiations. Such negotiations shall begin after the Authority evaluation panel has chosen a top-rated proposer. If such negotiations are not, in the opinion of the Authority's Executive Director, successfully concluded within five (5) business days, the Authority shall retain the right to end such negotiations and begin negotiations with the next rated proposer. The Authority shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e. top-rated first, then next-rated following until a successful negotiation is reached).
- 5.6.1 Requirements Contract/Task Order Basis:** The Authority does not at this time know the full extent of the work that the Authority will need the successful proposer to perform. The quantities listed in the cost proposal area shall be considered to be calculation factors only. The Authority will evaluate each proposer's cost proposal on an equitable basis.
    - 5.6.1.1** Therefore, the proposed contract shall be considered to be a Requirements Contract (RC) with work ordered on a task order basis. This means that the Authority will order work on an as-needed basis, and the successful proposer will provide the work pursuant to the unit costs proposed and/or negotiated.



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

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



**FORM OF PROPOSAL  
(Attachment A)**

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

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

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

**SECTION 3 STATEMENT**

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

**PROPOSER'S STATEMENT**

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Company

STANISLAUS REGIONAL HOUSING AUTHORITY



# Instructions to Offerors Non-Construction

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



- 03291 -

## 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:]

# REQUEST FOR PROPOSALS (RFP) NO. 2021-24, Banking Services

## PROFILE OF FIRM FORM (Attachment C)

(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.)

- (1) Prime \_\_\_\_ Sub-contractor \_\_\_\_ (This form must be completed by and for each).
- (2) Name of Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_
- (3) Street Address, City, State, Zip: \_\_\_\_\_
- (4) Please attached a brief biography/resume of the company, including the following information:  
(a) Year Firm Established; (b) Year Firm Established in [JURISDICTION]; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).
- (5) Identify Principals/Partners in Firm (submit under Tab No. 5 a brief professional resume for each):

NAME	TITLE	% OF OWNERSHIP

- (6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit under Tab No. 5 a brief resume for each. (Do not duplicate any resumes required above):

NAME	TITLE

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

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

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

☐ Resident-Owned\* \_\_\_\_\_%
 ☐ African American \_\_\_\_\_%
 ☐ \*\*Native American \_\_\_\_\_%
 ☐ Hispanic American \_\_\_\_\_%
 ☐ Asian/Pacific American \_\_\_\_\_%
 ☐ Hasidic Jew \_\_\_\_\_%
 ☐ Asian/Indian American \_\_\_\_\_%

☐ Woman-Owned (MBE) \_\_\_\_\_%
 ☐ Woman-Owned (Caucasian) \_\_\_\_\_%
 ☐ Disabled Veteran \_\_\_\_\_%
 ☐ Other (Specify): \_\_\_\_\_%

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

Certified by (Agency): \_\_\_\_\_

(NOTE: A CERTIFICATION/NUMBER NOT REQUIRED TO PROPOSE - ENTER IF AVAILABLE)

Signature

Date

Printed Name

Company

STANISLAUS REGIONAL HOUSING AUTHORITY

REQUEST FOR PROPOSALS (RFP) NO. 2021-24, Banking Services

**PROFILE OF FIRM FORM  
(Attachment C)**

(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.)

- (8) Federal Tax ID No.: \_\_\_\_\_
- (9) [APPROPRIATE JURISDICTION] Business License No.: \_\_\_\_\_
- (10) State of \_\_\_\_\_ License Type and No.: \_\_\_\_\_
- (11) Worker's Compensation Insurance Carrier: \_\_\_\_\_  
Policy No.: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- (12) General Liability Insurance Carrier: \_\_\_\_\_  
Policy No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- (13) Professional Liability Insurance Carrier: \_\_\_\_\_  
Policy No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- (14) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of \_\_\_\_\_, or any local government agency within or without the State of \_\_\_\_\_? Yes ☐ No ☐  
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (15) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the HA? Yes ☐ No ☐  
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such proposal is genuine and not collusive and that said proposer entity has not colluded, conspired, connived or agreed, directly or indirectly, with any proposer or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other proposer, to fix overhead, profit or cost element of said proposal price, or that of any other proposer or to secure any advantage against the HA or any person interested in the proposed contract; and that all statements in said proposal are true.
- (17) Verification Statement: The undersigned proposer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HA discovers that any information entered herein is false, that shall entitle the HA to not consider nor make award or to cancel any award with the undersigned party.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Company

(Attachment D)

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

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

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

TYPE OF BUSINESS: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Attached is the following documentation as evidence of status:

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

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

**For the business entity as applicable:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of Articles of Incorporation                                       | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate                                       | <input type="checkbox"/> Partnership Agreement        |
| <input type="checkbox"/> List of owners/stockholder and % of each                                | <input type="checkbox"/> Corporation Annual Report    |
| <input type="checkbox"/> Latest Board minutes appointing officers                                | <input type="checkbox"/> Additional documentation     |
| <input type="checkbox"/> Organization chart with names and titles and brief functional statement |   |

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

☐ List of subcontracted Section 3 business and subcontract amount

**For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- |  |   |
|--|---|
| <input type="checkbox"/> List of all current full time employees                           | <input type="checkbox"/> List of all employees claiming Section 3 status                                |
| <input type="checkbox"/> PHA Residential lease (less than 3 years from date of employment) | <input type="checkbox"/> Other evidence of Section 3 status (less than 3 years from date of employment) |

**Evidence of ability to perform successfully under the terms and conditions of the proposed contract:**

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

**Corporate Seal**

\_\_\_\_\_  
Authorizing Name and Signature

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Title

My term expires: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

(Attachment D)

SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES

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

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

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

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

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

Goal Of These Contracts For Project Area Businesses:

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

(INSERT THIS DOCUMENT IN PROPOSAL DOCUMENTS AND WITH PROPOSAL) DATE: \_\_\_\_\_

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

(Attachment D)

**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES  
(con'd)**

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

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

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

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

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

### SECTION 3 BUSINESS PREFERENCE CLAUSE (Attachment D)

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

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



**PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES**

**(Attachment D)**

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

**Priority I**

**Category 1a Business**

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

**Priority II**

**Category 1b Business**

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

**Priority III**

**Category 2a Business**

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

**Priority IV**

**Category 2b Business**

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

**Priority V**

**Category 3 Business**

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

**Priority VI**

**Category 4a Business**

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

**Priority VII**

**Category 4b Business**

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

**Eligibility for Preference**

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

## (Attachment D)

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

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

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

# General Conditions for Non-Construction Contracts

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

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

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

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 \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

### Section I - Clauses for All Non-Construction Contracts greater than \$150,000

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

## 8. Contract Termination; Debarment

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

## 9. Assignment of Contract

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

## 10. Certificate and Release

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

## 11. Organizational Conflicts of Interest

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

## 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

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

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

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

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

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

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## 16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

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

## 17. Dissemination or Disclosure of Information

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

## 18. Contractor's Status

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

## 19. Other Contractors

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

## 20. Liens

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

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

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

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

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

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

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





## Stanislaus Regional Housing Authority

ALPINE | AMADOR | CALAVERAS | INYO | MARIPOSA  
MONO | STANISLAUS | TUOLUMNE COUNTIES

### **CONTRACT FOR SERVICES**

#### **Contract #**

This agreement, entered into as of the TBD day of TBD, 2021, by and between the Stanislaus Regional Housing Authority, a public non-profit corporation; State of California; P.O. Box 581918 , 1701 Robertson Rd., Modesto, CA 95351 (Hereinafter referred to as the Authority), and

Contractor's Name or Company Name: TBD

Address, Including Zip Code:

Phone Number:

(Hereinafter referred to as Contractor).

#### **WITNESSETH:**

WHEREAS the Authority desires the Contractor to provide the following services:

Service Provider will perform the Banking Services located at 1701 Robertson Rd., Modesto, CA 95351

NOW, THEREFORE, the Authority and the Contractor do mutually agree as follows:

1. The Contractor shall provide all services as noted:
2. The Contractor shall include the Form of the Contract, Scope of Work, and all documents related to specifications included in the RFP documents.
3. Authority agrees to pay the Contractor as compensation per the following schedule of payments:
  - A. Services Payment Schedule:
4. Such fees shall be payable upon receipt of an invoice and acceptance of work by the Authority. If invoice is not submitted payment will be delayed. If Contractor does not follow agreed schedule of services and adjustment will be made to the invoice.
5. No member of or Delegate to Congress of the United States or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise there from.
6. No Member, officer or employees of the Authority, no member of the governing body

of the locality in which any of the Authority's projects are situated, no member of the governing **body** of the locality on which the Authority was activated, and no other public official of such locality or localities who exercises and responsibilities or functions with respect to the Authority's projects, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or proceeds thereof.

7. The Contractor warrants that they have not employed any person to solicit or secure of this warranty shall give the Authority the right to terminate this contract, or, in its discretion, to deduct from the Contractor's fee the amount of such commission, percentage, brokerage, or contingent fee.
8. The Contractor shall not assign or transfer any interest in this contract except that claims for monies due or to become due from the Local Authority under the contract may be assigned to a bank, trust company, or other financial institutions, if the Contractor is a member of such partnership.
9. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, marital status, or physical handicap (except as provided by Section 1420 of the California Labor Code.) The Contractor shall take affirmative action to ensure that applicants are employed, and employees are treated during employment without regard to race, color, religion, sex, age, national origin, marital status or physical handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
10. **INSURANCE** - The Contractor shall provide adequate worker's compensation insurance in compliance with State laws. The Contractor shall carry Comprehensive General Liability Insurance with bodily injury and Property Damage. The minimum amount of required coverage is \$1,000,000 per occurrence. The policy shall cover all operations of the Contractor in connection with the project, including is of all equipment, hoist, and vehicles on the project site. The Contractor shall furnish the Authority with an **Additional Insured Endorsement of Insurance** satisfactory to the Authority prior to execution of the contract with the Housing Authority named as Additional Insured. In addition, see Insurance requirement in RFP.
11. The Contractor shall indemnify the Stanislaus Regional Housing Authority, §  
officers, agents, and employees, against loss, damage, expense and liability resulting from injury to or death of person including but not limited to employees of the Housing Authority, or the Contractor, or injury to property , out of or in any way connected with the performance of this contract, however, caused, regardless of any negligence of the Housing Authority, whether active or passive, except for injury or death as may be caused by the sole negligence or willful misconduct of the Housing Authority. The Contractor shall, on the Authority's request, defend any suit asserting a claim covered by this indemnity. The Contractor shall pay cost including reasonable attorney's fees.
12. A Schedule of Events for work to be preformed will be presented to the Authority within Five (5) days and will cover the duration of the Project.
13. This contract shall remain in force for 1 year terms with four one year options to renew.

14. **CONTRACT TERMINATION:** The Authority reserves the right to cancel this contract at any time upon issuance of a thirty (30) day written notice of cancellation to the Contractor.

IN WITNESS WHEREOF, The Authority and the Contractor have executed this agreement the day and year first above written.

TBD  
Name of Contractor / Company

Stanislaus Regional Housing Authority

By: \_\_\_\_\_  
Owner

By: \_\_\_\_\_  
Barbara Kauss  
CEO / Executive Director

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

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

# **HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS INVESTMENT POLICY**

## **POLICY**

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) has established requirements governing cash management and approved investment instruments for certain funds under the control of Public Housing Authorities (PIH Notice 96-33); and

WHEREAS, the Legislature of the State of California has declared that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern California Government Code (CGC) Section 53600.6; and

WHEREAS, the Legislative body of a local agency may invest surplus monies not required for immediate necessities of the local agency in accordance with the provisions of HUD Notices PIH 96-33 and California Government Code (CGC) Sections 5933 and 53601; and

WHEREAS, the Executive Director of the Housing Authority of the County of Stanislaus shall annually prepare and submit a statement of investment policy and such policy, and any changes thereto, shall be considered by the Board of Commissioners of the Housing Authority at a public meeting {CGC 53646(a)};

NOW, THEREFORE, it shall be the policy of the Housing Authority to invest in a manner which will provide the maximum safety, liquidity and highest investment return while meeting the daily cash flow demands of the Housing Authority and conforming to all state and local statutes governing the investment of Housing Authority funds.

## **SCOPE**

This investment policy applies to all financial assets of the Housing Authority. The funds are listed and accounted for in the Housing Authority's Annual Financial Report.

## **PRUDENCE**

Investments shall be made with judgement and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used by investment officials shall be the **"prudent person"** standard (CGC53600.3) and shall be applied in the context of managing an overall portfolio. The Executive Director and his designees acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved

of personal responsibility for an individual security's credit risk or market price changes. Any information received which identifies potential security risks or market price changes of significance shall be pursued.

## OBJECTIVE

When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds the primary objectives, in priority order, of the investment activities shall be:

1.     **Safety:**         Safety of principal is the foremost object of this investment policy. Investments of the Housing Authority shall be undertaken in a manner that seek to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
2.     **Liquidity:**     The investment portfolio remain liquid to enable the Housing Authority to meet all operating requirements which might be reasonably anticipated. Sufficient investments will be capable of being liquidated on one days' notice.
3.     **Return on Investments:** The investment portfolio shall be designed with the objective of attaining a market rate throughout budgetary and economic cycles consistent with the Housing Authority investment policy, taking into consideration investment risk constraints and cash flow characteristics of the portfolio (CGC 53600.5)

## DELEGATION OF AUTHORITY

Authority to manage the investment program is derived from Section 401 (E) of the Annual Contribution Contract between HUD and the Housing Authority and the CGC Section 53601, et seq. Management responsibility for the investment program is hereby delegated to the Executive Director of the Housing Authority who shall establish written procedures for the operation of the investment program consistent with this investment policy. Procedures should include references to safekeeping and repurchase agreements, wire transfer agreements, collateral/depository agreements and baking services contracts, as appropriate. Such procedures shall include explicit delegation of authority to person responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and procedures established by the Executive Director. The Executive Director, as authorized by the Housing Authority Board of Commissioners, shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. The Executive Director is a trustee and fiduciary subject to the *prudent investor* standard (CGC 53600.3)

## **ETHICS AND CONFLICTS OF INTEREST**

Officers and employees of the Housing Authority and such investment underwriters, bond counsel and other financial advisors or consultants involved in the investment process shall refrain from personal business activity which could conflict with the proper execution of the investment program, or which could impair ability to make impartial investment decisions.

## **AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS**

- A. The Executive Director will maintain a list of financial institutions that are authorized to provide investment services. Selection for placement on this list will be on the basis of credit worthiness, financial strength, experience and minimal capitalization. In addition, a list will also be maintained of approved security broker/dealers or investment bank underwriters who are authorized to provide investment and financial advisory services in the State of California. No public deposit shall be made except in a qualified public depository as established by state law.
- B. Selection: for brokers/dealers or investment bank underwriters of government securities and other investment, the Executive Director shall select only brokers/dealers or investment bank underwriters who are licensed and in good standing with the California Department of Securities and Exchange Commission, the National Association of Securities Dealers or other applicable self-regulatory organizations; and, cannot have made any campaign contributions to any member of the Housing Authority's Board of Commissioners.
- C. Certification: Before engaging in investment transaction with a broker/dealer or investment bank underwriter, the Executive Director shall have received from said firm a signed Certification Form (See Exhibit 1). This form shall attest that the individual responsible for the Housing Authority's account with that firm has reviewed the Housing Authority's Investment Policy and that the firm understands the policy and intends to present investment recommendations and transaction to the Housing Authority that are appropriate under the terms and conditions of the Investment Policy.

## **AUTHORIZED AND SUITABLE INVESTMENTS**

The Housing Authority is empowered by the HUD Notice 96-33 (See Attachment A) to invest HUD funds in the following:

- A. United States Treasury Bills, Notes & Bonds.
- B. Obligations issued by agencies or Instrumentalities of U.S. Government.
- C. State of Municipal Depository Funds, such as The Local Agency Investment Fund (LAIF).

- D. Insured Demand and Savings Deposits, provided that deposits in excess of the insured amount must be 100 percent collateralized by securities listed in A & B above.
- E. Insured Money Market Deposit Accounts, provided that deposits in excess of the insured amount must be 100 percent collateralized by securities listed in A & B above.
- F. Negotiable Certificates of deposit issued by federally or state chartered banks or associations. Not more than 30 percent of surplus funds can be invested in certificates of deposit. Investment in Certificates of deposits are restricted as specified in HUD Notices 96-33, Attachment A.
- G. Repurchase/Reverse Repurchase Agreements of any securities by this Section. Securities purchased under these agreements shall be no less than 102 percent of market value. [See special limits in HUD Notice 96-33 (Attachment A) and CGC 53601.0 (Attachment B).]
- H. Sweep Accounts that are 100 percent collateralized by securities listed in A & B above.
- I. Shares of beneficial interest issued by diversified management company investing in the securities and obligations authorized by this Section (Money Market Mutual Funds). Such Funds must carry the highest rating of at least two national rating agencies. Not more than 15 or 20 percent of surplus funds can be invested in Money Market Funds.
- J. Funds held under the terms of Trust Indenture or other contract or agreement, including the HUD/Public Housing Agency Annual Contributions Contract, may be invested according to the provision of those indentures of contracts.
- K. Any other investment security authorized under the provision of HUD Notice PIH 96-33.

The Housing Authority is empowered by California Government Code (CGC) Sections 5922 and 53601 et seq. To invest non-HUD funds in the following:

- A. Bonds issued by local government agencies with a maximum maturity of five years (See Attachment 2).
- B. United States Treasury Bills, Notes & Bonds.
- C. Registered State warrants or Treasury notes or bonds issued by the State of California.
- D. Bonds, Notes, warrants or other evidence of debt issued by a local agency within the State of California, including pooled investment accounts sponsored by the State of California, County Treasurer, other local agencies or Joint Powers Agencies.
- E. Obligations issued by Agencies or Instrumentality of the U.S. Government.

- F. Bankers Acceptances with a term not to exceed 270 days. Not more than 40 percent of surplus funds can be invested in Bankers Acceptances and no more than 30 percent of surplus funds can be invested in the bankers acceptances of any single commercial bank.
- G. Prime Commercial Paper with a term not to exceed 180 days and the highest rating issued by Moody's Investors Service or Standard & Poor's (S&P) Corp. Commercial paper cannot exceed 15 percent of the total surplus funds, provided, that if the average maturity of all commercial paper does not exceed 31 days, up to 30 percent of surplus funds can be invested in Commercial Paper.
- H. Negotiable Certificates of Deposit issued by federally or state chartered banks or associations. Not more than 30 percent of surplus funds can be invested in certificates of deposit.
- I. Repurchase/Reverse Repurchase Agreements of any securities authorized by this section. Securities purchased under these agreements shall be less than 102 percent of market value (See special limits in CGC 53601).
- J. Medium term notes (not to exceed 5 years) of U.S. corporations rated "A" or better by Moody's or S&P's. Not more than 30 percent of surplus funds can be invested in Medium-term notes.
- K. Share of beneficial interest issued by diversified management companies investing in the securities and obligations authorized by this Section. Such funds (Money Market Mutual Funds) must carry the highest rating of a least two national rating agencies. Not more than 15 percent of surplus funds can be invested in Money Market Mutual Funds.
- L. Funds held under terms of Trust Indenture or other contract or agreement may be invested according to the provisions of those indentures or agreements.
- M. Collateralized bank deposits with a perfected security interest in accordance with the Uniform Commercial Code (UCC) or applicable federal security regulations.
- N. Any mortgage pass-through security, collateralized mortgage obligation, mortgaged-back or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate or consumer receivable-backed bond of a maximum maturity of five years. Securities in this category must be rated AA or better by a national rating service. Not more than 30 percent of surplus funds can be invested in this category of securities.
- O. Any other investment security authorized under the provision of CGC 5922 and 53601.

**Attachment A, HUD Notice 96-33, HUD-approved investment Instruments, and Attachment B, CGC Section 53601, provide a detailed summary of limitations and special conditions that apply to each of the above listed investment securities. These attachments are included by reference in this investment policy.**



## **PROHIBITED INVESTMENTS**

Under the provision of CGC Section 53631.5, the Housing Authority shall not invest any funds covered by this Investment Policy in inverse floaters, range notes, Interest-only STRIPS derived from mortgage pools or any investment that may result in a zero interest accrual if held to maturity.

## **COLLATERALIZATION**

All certificates of deposit must be collateralized by U.S. Treasury Obligations. Collateral must be held by a third party and valued on a monthly basis. The percentage of collateralization on repurchase agreements will conform to the amount required under CGC 53601.

## **SAFEKEEPING AND CUSTODY**

All security transactions entered in by the Housing Authority shall be conducted during the normal business hours of the Housing Authority, on Housing Authority premises and a delivery-versus-payment (DVP) basis. Only during an extreme emergency shall security transaction be conducted during non-business Housing Authority hours, not on Housing Authority premises. All securities purchased or acquired shall be delivered to the Housing Authority by book entry, physical delivery or by third party custodial agreement (CGC 53601).

## **DIVERSIFICATION**

It is the policy of the Housing Authority to diversify its investment portfolio. The Housing Authority will diversify its investments by security type and, within each type, by institution. Assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issue or a specific class of securities. Diversification strategies shall be determined and revised periodically. In establishing specific diversification strategies, the following guidelines shall apply:

- A. Portfolio maturities shall be matched against project liabilities to avoid an over concentration in specific series of maturities.
- B. Maturities selected shall provide for stability and liquidity.
- C. Disbursement and payroll dates shall be covered by the scheduled maturity of specific investments, marketable U.S. Treasury Bills or notes or other cash equivalent instruments, such as money market mutual funds.

## **REPORTING**

The Executive Director shall submit to each member of the Housing Authority Board of Commissioners a quarterly investment report. The report shall include a complete description of the portfolio, the type of investment, the issuers, maturity dates, par values and the current market values of each component of the portfolio, including funds managed by third-party contractors. The report will also include the source of the portfolio valuation. In case of funds invested in the Local Agency Investment Fund (LAIF), Federal Deposit Insurance Corporation (FDIC) accounts or county investment pools, current statements from those institution will satisfy the above reporting requirement. The report will also include a certification that (1) all investment action executed since the last report have been made in full compliance with the Investment Policy and; (2) the Housing Authority will meet its expenditure obligations for the next six months [CGC 53646(b)]. The Executive Director shall maintain a complete and timely record of all investment transactions.

## **INVESTMENT POLICY ADOPTION**

The investment Policy shall be adopted by resolution by the Housing Authority Board of Commissioners. Moreover, the Policy shall be reviewed on an annual basis and modifications must be approved by the Housing Authority Board of Commissioners.

## ATTACHMENT A

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

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

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

#### **1. PURPOSE**

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

#### **2. BACKGROUND**

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

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

### **3. APPLICABILITY**

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

### **4. BANKING SERVICES**

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

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

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

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

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

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

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

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

## **6. INVESTMENT OF FUNDS**

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

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

**b. Approved Investment Securities**

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

**c. Determination of Investment Type**

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

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

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

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

d. INVESTMENT OF FUNDS HELD BY HA FISCAL AGENTS

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

e. Investment Register

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

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

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

**f. Internal Controls**

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

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

**7. CASH MANAGEMENT**

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



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

**a. Cash Management by the HA**

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

**b. Cash Management by an Agent**

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

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

**c. Temporary Funds Available for Investment**

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

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

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

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

## **8. MONITORING**

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

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

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

Attachments

## HUD APPROVED INVESTMENT INSTRUMENTS

1. Direct Obligations of the Federal Government Backed by the Full Faith and Credit of the United States

a. U.S. Treasury Bills

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

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

b. U.S. Treasury Notes and Bonds

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

(1) U.S. Treasury Notes

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

(2) U.S. Treasury Bonds

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

2. Obligations of Federal Government Agencies

a. Federal Financing Bank (FFB)

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

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

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

c. GNMA Participation Certificates

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

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

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

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

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

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

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

3. Securities of Government-Sponsored Agencies

a. Farm Credit Consolidated System-Wide Discount Notes

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

b. Federal Farm Credit Banks Consolidated System-wide Bonds

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

c. Federal Home Loan Banks Consolidated Obligations

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

(1) Bonds

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

(2) Notes

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

(3) Discount Notes

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

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

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

e. FHLMC Collateralized Mortgage Obligations (CMOs)

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

f. Federal National Mortgage Association (FNMA) Debentures

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

g. FNMA Notes

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

h. FNMA Short-Term Discount Notes

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

i. FNMA Capital Debentures

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

j. Student Loan Marketing Associations (SLMA) Obligations

SLMA issues obligations comprises of guaranteed student loans as follows:

(1) Floating Rate and Master Notes.

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

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

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

(3) Zero Coupon Notes

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

4. Demand and Savings Deposits

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

5. Money-Market Deposit Accounts

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

6. Municipal Depository Fund

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



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

7. Super NOW Accounts

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

8. Certificates of Deposit

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

## 9. Repurchase Agreements

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

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

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

#### 10. Sweep Accounts

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

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

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

#### 12. Mutual Funds

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

a. Mutual Fund Criteria

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

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

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

# **HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS INVESTMENT POLICY**

## **POLICY**

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) has established requirements governing cash management and approved investment instruments for certain funds under the control of Public Housing Authorities (PIH Notice 96-33); and

WHEREAS, the Legislature of the State of California has declared that the deposit and investment of public funds by local officials and local agencies is an issue of statewide concern California Government Code (CGC) Section 53600.6; and

WHEREAS, the Legislative body of a local agency may invest surplus monies not required for immediate necessities of the local agency in accordance with the provisions of HUD Notices PIH 96-33 and California Government Code (CGC) Sections 5933 and 53601; and

WHEREAS, the Executive Director of the Housing Authority of the County of Stanislaus shall annually prepare and submit a statement of investment policy and such policy, and any changes thereto, shall be considered by the Board of Commissioners of the Housing Authority at a public meeting {CGC 53646(a)};

NOW, THEREFORE, it shall be the policy of the Housing Authority to invest in a manner which will provide the maximum safety, liquidity and highest investment return while meeting the daily cash flow demands of the Housing Authority and conforming to all state and local statutes governing the investment of Housing Authority funds.

## **SCOPE**

This investment policy applies to all financial assets of the Housing Authority. The funds are listed and accounted for in the Housing Authority's Annual Financial Report.

## **PRUDENCE**

Investments shall be made with judgement and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used by investment officials shall be the **"prudent person"** standard (CGC53600.3) and shall be applied in the context of managing an overall portfolio. The Executive Director and his designees acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved

of personal responsibility for an individual security's credit risk or market price changes. Any information received which identifies potential security risks or market price changes of significance shall be pursued.

## **OBJECTIVE**

When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds the primary objectives, in priority order, of the investment activities shall be:

1.     **Safety:**         Safety of principal is the foremost object of this investment policy. Investments of the Housing Authority shall be undertaken in a manner that seek to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
2.     **Liquidity:**     The investment portfolio remain liquid to enable the Housing Authority to meet all operating requirements which might be reasonably anticipated. Sufficient investments will be capable of being liquidated on one days' notice.
3.     **Return on Investments:** The investment portfolio shall be designed with the objective of attaining a market rate throughout budgetary and economic cycles consistent with the Housing Authority investment policy, taking into consideration investment risk constraints and cash flow characteristics of the portfolio (CGC 53600.5)

## **DELEGATION OF AUTHORITY**

Authority to manage the investment program is derived from Section 401 (E) of the Annual Contribution Contract between HUD and the Housing Authority and the CGC Section 53601, et seq. Management responsibility for the investment program is hereby delegated to the Executive Director of the Housing Authority who shall establish written procedures for the operation of the investment program consistent with this investment policy. Procedures should include references to safekeeping and repurchase agreements, wire transfer agreements, collateral/depository agreements and baking services contracts, as appropriate. Such procedures shall include explicit delegation of authority to person responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and procedures established by the Executive Director. The Executive Director, as authorized by the Housing Authority Board of Commissioners, shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. The Executive Director is a trustee and fiduciary subject to the *prudent investor* standard (CGC 53600.3)

## **ETHICS AND CONFLICTS OF INTEREST**

Officers and employees of the Housing Authority and such investment underwriters, bond counsel and other financial advisors or consultants involved in the investment process shall refrain from personal business activity which could conflict with the proper execution of the investment program, or which could impair ability to make impartial investment decisions.

## **AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS**

- A. The Executive Director will maintain a list of financial institutions that are authorized to provide investment services. Selection for placement on this list will be on the basis of credit worthiness, financial strength, experience and minimal capitalization. In addition, a list will also be maintained of approved security broker/dealers or investment bank underwriters who are authorized to provide investment and financial advisory services in the State of California. No public deposit shall be made except in a qualified public depository as established by state law.
- B. Selection: for brokers/dealers or investment bank underwriters of government securities and other investment, the Executive Director shall select only brokers/dealers or investment bank underwriters who are licensed and in good standing with the California Department of Securities and Exchange Commission, the National Association of Securities Dealers or other applicable self-regulatory organizations; and, cannot have made any campaign contributions to any member of the Housing Authority's Board of Commissioners.
- C. Certification: Before engaging in investment transaction with a broker/dealer or investment bank underwriter, the Executive Director shall have received from said firm a signed Certification Form (See Exhibit 1). This form shall attest that the individual responsible for the Housing Authority's account with that firm has reviewed the Housing Authority's Investment Policy and that the firm understands the policy and intends to present investment recommendations and transaction to the Housing Authority that are appropriate under the terms and conditions of the Investment Policy.

## **AUTHORIZED AND SUITABLE INVESTMENTS**

The Housing Authority is empowered by the HUD Notice 96-33 (See Attachment A) to invest HUD funds in the following:

- A. United States Treasury Bills, Notes & Bonds.
- B. Obligations issued by agencies or Instrumentalities of U.S. Government.
- C. State of Municipal Depository Funds, such as The Local Agency Investment Fund (LAIF).



- D. Insured Demand and Savings Deposits, provided that deposits in excess of the insured amount must be 100 percent collateralized by securities listed in A & B above.
- E. Insured Money Market Deposit Accounts, provided that deposits in excess of the insured amount must be 100 percent collateralized by securities listed in A & B above.
- F. Negotiable Certificates of deposit issued by federally or state chartered banks or associations. Not more than 30 percent of surplus funds can be invested in certificates of deposit. Investment in Certificates of deposits are restricted as specified in HUD Notices 96-33, Attachment A.
- G. Repurchase/Reverse Repurchase Agreements of any securities by this Section. Securities purchased under these agreements shall be no less than 102 percent of market value. [See special limits in HUD Notice 96-33 (Attachment A) and CGC 53601.0 (Attachment B).]
- H. Sweep Accounts that are 100 percent collateralized by securities listed in A & B above.
- I. Shares of beneficial interest issued by diversified management company investing in the securities and obligations authorized by this Section (Money Market Mutual Funds). Such Funds must carry the highest rating of at least two national rating agencies. Not more than 15 or 20 percent of surplus funds can be invested in Money Market Funds.
- J. Funds held under the terms of Trust Indenture or other contract or agreement, including the HUD/Public Housing Agency Annual Contributions Contract, may be invested according to the provision of those indentures of contracts.
- K. Any other investment security authorized under the provision of HUD Notice PIH 96-33.

The Housing Authority is empowered by California Government Code (CGC) Sections 5922 and 53601 et seq. To invest non-HUD funds in the following:

- A. Bonds issued by local government agencies with a maximum maturity of five years (See Attachment 2).
- B. United States Treasury Bills, Notes & Bonds.
- C. Registered State warrants or Treasury notes or bonds issued by the State of California.
- D. Bonds, Notes, warrants or other evidence of debt issued by a local agency within the State of California, including pooled investment accounts sponsored by the State of California, County Treasurer, other local agencies or Joint Powers Agencies.
- E. Obligations issued by Agencies or Instrumentality of the U.S. Government.

- F. Bankers Acceptances with a term not to exceed 270 days. Not more than 40 percent of surplus funds can be invested in Bankers Acceptances and no more than 30 percent of surplus funds can be invested in the bankers acceptances of any single commercial bank.
- G. Prime Commercial Paper with a term not to exceed 180 days and the highest rating issued by Moody's Investors Service or Standard & Poor's (S&P) Corp. Commercial paper cannot exceed 15 percent of the total surplus funds, provided, that if the average maturity of all commercial paper does not exceed 31 days, up to 30 percent of surplus funds can be invested in Commercial Paper.
- H. Negotiable Certificates of Deposit issued by federally or state chartered banks or associations. Not more than 30 percent of surplus funds can be invested in certificates of deposit.
- I. Repurchase/Reverse Repurchase Agreements of any securities authorized by this section. Securities purchased under these agreements shall be less than 102 percent of market value (See special limits in CGC 53601).
- J. Medium term notes (not to exceed 5 years) of U.S. corporations rated "A" or better by Moody's or S&P's. Not more than 30 percent of surplus funds can be invested in Medium-term notes.
- K. Share of beneficial interest issued by diversified management companies investing in the securities and obligations authorized by this Section. Such funds (Money Market Mutual Funds) must carry the highest rating of a least two national rating agencies. Not more than 15 percent of surplus funds can be invested in Money Market Mutual Funds.
- L. Funds held under terms of Trust Indenture or other contract or agreement may be invested according to the provisions of those indentures or agreements.
- M. Collateralized bank deposits with a perfected security interest in accordance with the Uniform Commercial Code (UCC) or applicable federal security regulations.
- N. Any mortgage pass-through security, collateralized mortgage obligation, mortgaged-back or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate or consumer receivable-backed bond of a maximum maturity of five years. Securities in this category must be rated AA or better by a national rating service. Not more than 30 percent of surplus funds can be invested in this category of securities.
- O. Any other investment security authorized under the provision of CGC 5922 and 53601.

**Attachment A, HUD Notice 96-33, HUD-approved investment Instruments, and Attachment B, CGC Section 53601, provide a detailed summary of limitations and special conditions that apply to each of the above listed investment securities. These attachments are included by reference in this investment policy.**

## **PROHIBITED INVESTMENTS**

Under the provision of CGC Section 53631.5, the Housing Authority shall not invest any funds covered by this Investment Policy in inverse floaters, range notes, Interest-only STRIPS derived from mortgage pools or any investment that may result in a zero interest accrual if held to maturity.

## **COLLATERALIZATION**

All certificates of deposit must be collateralized by U.S. Treasury Obligations. Collateral must be held by a third party and valued on a monthly basis. The percentage of collateralization on repurchase agreements will conform to the amount required under CGC 53601.

## **SAFEKEEPING AND CUSTODY**

All security transactions entered in by the Housing Authority shall be conducted during the normal business hours of the Housing Authority, on Housing Authority premises and a delivery-versus-payment (DVP) basis. Only during an extreme emergency shall security transaction be conducted during non-business Housing Authority hours, not on Housing Authority premises. All securities purchased or acquired shall be delivered to the Housing Authority by book entry, physical delivery or by third party custodial agreement (CGC 53601).

## **DIVERSIFICATION**

It is the policy of the Housing Authority to diversify its investment portfolio. The Housing Authority will diversify its investments by security type and, within each type, by institution. Assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issue or a specific class of securities. Diversification strategies shall be determined and revised periodically. In establishing specific diversification strategies, the following guidelines shall apply:

- A. Portfolio maturities shall be matched against project liabilities to avoid an over concentration in specific series of maturities.
- B. Maturities selected shall provide for stability and liquidity.
- C. Disbursement and payroll dates shall be covered by the scheduled maturity of specific investments, marketable U.S. Treasury Bills or notes or other cash equivalent instruments, such as money market mutual funds.

## **REPORTING**

The Executive Director shall submit to each member of the Housing Authority Board of Commissioners a quarterly investment report. The report shall include a complete description of the portfolio, the type of investment, the issuers, maturity dates, par values and the current market values of each component of the portfolio, including funds managed by third-party contractors. The report will also include the source of the portfolio valuation. In case of funds invested in the Local Agency Investment Fund (LAIF), Federal Deposit Insurance Corporation (FDIC) accounts or county investment pools, current statements from those institution will satisfy the above reporting requirement. The report will also include a certification that (1) all investment action executed since the last report have been made in full compliance with the Investment Policy and; (2) the Housing Authority will meet its expenditure obligations for the next six months [CGC 53646(b)]. The Executive Director shall maintain a complete and timely record of all investment transactions.

## **INVESTMENT POLICY ADOPTION**

The investment Policy shall be adopted by resolution by the Housing Authority Board of Commissioners. Moreover, the Policy shall be reviewed on an annual basis and modifications must be approved by the Housing Authority Board of Commissioners.

## ATTACHMENT A

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

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

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

#### **1. PURPOSE**

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

#### **2. BACKGROUND**

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

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

### **3. APPLICABILITY**

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

### **4. BANKING SERVICES**

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

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

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

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

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

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

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

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

## **6. INVESTMENT OF FUNDS**

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

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

**b. Approved Investment Securities**

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

**c. Determination of Investment Type**

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

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



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

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

d. INVESTMENT OF FUNDS HELD BY HA FISCAL AGENTS

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

e. Investment Register

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

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

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

**f. Internal Controls**

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

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

**7. CASH MANAGEMENT**

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

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

**a. Cash Management by the HA**

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

**b. Cash Management by an Agent**

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

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

**c. Temporary Funds Available for Investment**

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

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

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

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

## **8. MONITORING**

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

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

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

Attachments

## **HUD APPROVED INVESTMENT INSTRUMENTS**

1. Direct Obligations of the Federal Government Backed by the Full Faith and Credit of the United States

a. U.S. Treasury Bills

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

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

b. U.S. Treasury Notes and Bonds

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

(1) U.S. Treasury Notes

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

(2) U.S. Treasury Bonds

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

2. Obligations of Federal Government Agencies

a. Federal Financing Bank (FFB)

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

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

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

c. GNMA Participation Certificates

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

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

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

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

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

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

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

3. Securities of Government-Sponsored Agencies

a. Farm Credit Consolidated System-Wide Discount Notes

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

b. Federal Farm Credit Banks Consolidated System-wide Bonds

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

c. Federal Home Loan Banks Consolidated Obligations

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

(1) Bonds

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

(2) Notes

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

(3) Discount Notes

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

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

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

e. FHLMC Collateralized Mortgage Obligations (CMOs)

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

f. Federal National Mortgage Association (FNMA) Debentures

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



g. FNMA Notes

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

h. FNMA Short-Term Discount Notes

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

i. FNMA Capital Debentures

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

j. Student Loan Marketing Associations (SLMA) Obligations

SLMA issues obligations comprises of guaranteed student loans as follows:

(1) Floating Rate and Master Notes.

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

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

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

(3) Zero Coupon Notes

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

4. Demand and Savings Deposits

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

5. Money-Market Deposit Accounts

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

6. Municipal Depository Fund

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

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

7. Super NOW Accounts

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

8. Certificates of Deposit

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

## 9. Repurchase Agreements

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

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

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

#### 10. Sweep Accounts

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

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

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

#### 12. Mutual Funds

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

a. Mutual Fund Criteria

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

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

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

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

### **Description of Funds**

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

(1) **Debt Service Fund**

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

(2) **Advance Amortization Fund**

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

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

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



**REQUEST FOR PROPOSALS NO. 2021-24, Banking Services**

<b>Declared Earnings Allowance for the Past 6 Months (Attachment H)</b>
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Each proposer must fully complete this form and submit such under a new Tab No. 11 of the proposal submittal.

Month	Declared Earnings Allowance
March, 2021	
February, 2021	
January, 2021	
December, 2020	
November, 2020	
October, 2020	

COMPLETED BY:

_____ Signature	_____ Date	_____ Printed Name	_____ Company Name
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