

**City of Plano  
Community Services Division  
Contractor Participation**

**Part III. Contractor Participation Requirements**

Section I. Contractor Outreach

A. Tools

The tools below will be utilized, as appropriate, to promote the Housing Rehabilitation Program to the construction/rehabilitation/remodeling industry and encourage participation thereof:

1. Public solicitation
2. Distribution of contractor brochures
3. Informational seminars
4. Networking with industry trade organizations

B. Minimum Thresholds

A minimum of six (6) general contractors and at least three (3) each of HVAC, roofing or plumbing subcontractors are recommended to be on the Vendor List to effectively complete approved Work. From time to time, the City does not receive sufficient trade applicants to complete Emergency related work. In such event, City staff will utilize the general contractors appearing on the Vendor List on a rotating basis to ensure completion of the Emergency work and until at least one tradesman for the work needed has been added to the Vendor List per the procurement guidelines herein. Also, in the event of an Emergency Repair Project where no tradesman listed in the Vendor List is available to abate or address the emergency issues, Staff may select on a rotating basis a general contractor appearing on the Vendor List to complete the Emergency Work.

Section II. Contractor Selection

A. Type of Project

Contractors are selected under three primary scenarios: to complete Emergency Repair Work; to complete Owner non-emergency Work; or to complete Work with Acquisition-Rehabilitation-Resale assistance. All Contractors selected to complete Work will meet the Contractor Qualification per Program requirements and be selected as outlined herein.

B. Contractor Selection by Project Type

1. Contractor Selection for Non-Emergency Owner Assistance

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Owners qualified to receive non-emergency repair Work will select the Contractor from the City's Vendor List and will abide by the following guidelines:

- a) The Owner will acknowledge in the Contract that the City's Vendor List is not an endorsement of those Contractors' work. The list merely signifies that the Contractors are adequately insured, and have provided references and financial stability information to the City.
- b) Staff will forward qualified Owners one copy of the active Vendor List, the Cost Reasonableness thresholds, and sufficient copies of the Work Specifications, sample Contract and any form applicable for the Project completion to distribute to their choice of Contractors.
- c) The Owner will contact the Contractors on the Vendor List and be responsible for scheduling their own Contractor walk-through, interviewing the Contractors and selecting the Contractor whose total bid falls within  $\pm 10\%$  of the Cost Reasonableness thresholds, as long as the  $\pm 10\%$  does not exceed the Program caps or the Applicant's affordability limits.
- d) Owner will forward the name of the Contractor selected to Staff via in writing by either mail or e-mail, or by telephone to his/her HCSC.
- e) Staff will schedule commitment and pre-construction appointments to complete the Owner Participation Agreement and Construction Contract paperwork.

2. Contractor Selection for Emergency Repair Work

No Owner may select a Contractor to complete repairs or rehabilitation work deemed emergency; such Contractor will be selected by Staff from a list of pre-approved tradesmen on a rotating basis as outlined herein.

3. Acquisition/Rehabilitation Repair Projects

In the event the City, purchases a Property for rehabilitation and resale, the City will utilize the Competitive Sealed Bid process outlined herein.

Section III. Contractor Qualification

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All Contractors appearing on the Vendor List or awarded a construction contract must meet, at a minimum, the qualifications outlined below for consideration:

A. Contractor Application Form

All Contractors will complete a Contractor Application Form and include all the information requested in the application form or bidding packet. Incomplete or inaccurately completed application forms will not be processed. A copy will be maintained in the file. In the event of a Contractor disqualification, the Contractor will be notified by mail the reason for being denied participation in the Vendor List.

B. Bonding

Any Contractor executing a Federally-funded construction contract valued at \$150,000 or more requires a surety bond as a condition of contract award. This federal regulation can be found at 24 C.F.R. 85.36 and the Miller Act of 1935.

C. Insurance

Contractors will procure and maintain the minimum insurance coverage set forth immediately below for the duration of the Construction Contract, Contractor Participation Agreement and/or Price Agreement and as a requirement of placement on the Vendor List, as appropriate, insurance against claims for injuries to person or damages to Property which may arise from or in connection with the performance the Work or Construction Contract by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance will be borne by the Contractor.

By requiring such minimum insurance, City will not be deemed or construed to have assessed the risk that may or may not be applicable to the Contractor. The Contractor will assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Contractor is not relieved of any liability or other obligation assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The insurance requirements listed below do not replace any warranty or surety (performance, payment, or maintenance) bonds if required by preceding or subsequent sections of this policy or the Construction Contract.

Contractor will cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified herein or cover such subcontractors under its insurance coverage.

The Contractor agrees that the insurance requirements specified in this section do not reduce the liability Contractor has assumed in any indemnification/hold harmless section of this policy or the Construction Contract.

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City reserves the right to approve the security of the insurance coverage provided pursuant to this policy by insurers including terms, conditions and the Certificate of Insurance. Failure of the Contractor to fully comply with requirements of this policy during the term of the Contract or the Contractor Participation Agreement will be considered a material breach of the Construction Contract, the Contractor Participation Agreement and will be cause for immediate termination of the Contractor Participation Agreement and non-payment of any Work completed on the Project at the option of City.

1. General Requirements

a) Types of Insurance Coverage

At a minimum, Contractors must have general liability insurance, business automobile insurance and workers' compensation (if appropriate) and employer's liability insurance.

b) State Authorization

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas.

c) Other Insurance

The City reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

d) Evidence of Insurance

Prior to commencement of Work, and thereafter upon renewal or replacement of coverage required by this section, Contractor will furnish City a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with this policy. Contractor will furnish copies of all endorsement to insurance policies as required by each section herein to the City. The City also reserves the right to require and to verify, complete, certified copies of all required insurance policies, at any time

Failure of City to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of City to identify a deficiency from evidence that is provided will not be construed as a waiver of Contractor's obligation to maintain such insurance.

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City will have the right, but not the obligation, of prohibiting Contractor or any subcontractor from entering the project site or commencing any service pursuant to the Construction Contract until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the City.

Failure to maintain required insurance may result in termination of the Construction Contract, the Contractor Participation Agreement and non-payment of any completed Work at sole option of the City.

The Contractor will furnish a Certificate of Insurance (COI) evidencing insurance coverage required by this section ten (10) business days preceding commencement of contracted service(s). The COI will:

- i. List contract number, project name/number, name of event, location (building name, building address, etc.), date(s) of event or service being performed;
- ii. List waiver of subrogation is in favor of City with regard to Workers' Compensation Coverage if required listed as required in the "Minimum Coverage & Limits" section herein;
- iii. List the specific number of days cancellation provided pursuant to policy language for notice of cancellation to certificate; and
- iv. List City of Plano, Office of Risk Management, 7501-A Independence Parkway, Plano, Texas, 75025 in the Certificate Holder Section.

e) Insurance Status

The Contractors are required to immediately notify the City of any change in insurance status.

f) Endorsements

Each insurance policy required herein will be endorsed to state that coverage will not be suspended, voided, cancelled or non-renewed by either party, reduced in coverage or in limits except after thirty

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(30) Calendar Days prior written notice by certified mail, return receipt requested, has been given to the City.

2. Type of Insurance and Amount

a) General Commercial Liability

i. Minimum Scope of Insurance

ISO form Number GL 404 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 040 covering Broad Form Comprehensive General Liability; or ISO Commercial General Liability coverage (“occurrence” Form CG 0001). “Claims made” for is unacceptable except for professional liability.

ii. Minimum Limits of Insurance

Contractor will maintain limits not less than a commercial general liability insurance with the following:

- \$1,000,000 per occurrence for bodily injury, personal injury and Property damage;
- \$2,000,000 aggregate policy to include coverage for:
  - Premises – operations
  - Broad form contractual liability
  - Use of Contractors and subcontractors
  - Personal injury
  - Broad form property damage
  - Explosion collapse and underground (XCU) coverage (when applicable, fire damage, medical expense)
- \$1,000,000 personal/advertising injury
- \$2,000,000 products/completed operations aggregate

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iii. Deductibles and Self-Insured Retentions

Any deductible or self-insured retentions must be declared and approved by the City.

iv. Other Insurance Provisions:

The policies are to contain, or be endorsed to contain the following provisions:

- The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as “additional insureds” with respect to liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied or used by the Contractor. The coverage will contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
- The City will be provided a thirty Calendar (30) day notice of cancellation or material change in coverage.
- The Contractor’s insurance coverage will be primary insurance with respect to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers will be in excess of the Contractor’s insurance and will not contribute with it.
- Any failure to comply with reporting provisions of the policy will not affect coverage provided to the City, its officers, officials, employees, Boards and Commissions or volunteers.
- The Contractor’s insurance will apply separately to each insured against whom claim is made or suit is brought.

b) Automobile Liability

- i. If the company owns vehicles, Contractor will maintain business automobile liability insurance and, if

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necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident.

- ii. Such automobile liability insurance will cover liability arising out of any auto (including owned, hired, and non-owned automobiles).
- iii. Commercial automobile coverage will be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy will be endorsed to provide contractual liability coverage equivalent to the provided in ISO form CA 00 01.
- iv. Contractor waives all rights against City and its agents, officers, directors and employees for recovery by the commercial automobile liability or commercial umbrella liability insurance obtained by Contractor pursuant to this section or under any applicable automobile physical damage coverage.

c) All Coverages

Each insurance policy required by this clause will be endorsed to state that coverage will not be suspended, voided, cancelled or non-renewed by either party, reduced in coverage.

3. Acceptability of Insurers

The City of Plano requires that insurance:

- a) be on a primary basis, non-contributory with any other insurance coverage and/or self-insurance carried by the City; and
- b) be placed with insurers possessing an A-VII. A. M. Best Rating or better by Standard and Poor's. Insurers will be acceptable to the City of Plano insofar as their financial strength and solvency are concerned.

4. Verification of Coverage

The City reserves the right to require complete, certified copies of all required insurance policies and conduct its own due diligence and verification thereof at any time.



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**D. Experience and Skill**

**1. Prior Municipal Contracting Experience**

Prior municipal contracting experience in successfully completing Projects is not mandatory, but desired.

**2. Skill and Experience Related to the Bid Requirements**

In the Contractor Application Form, Contractors will outline qualifications relevant to the bid procurement.

**3. Number of Years in Business**

**a) General Contractor and Tradesmen**

Contractors will have a minimum six (6) years-experience related to the Work requirements.

**b) Consultants, Architects, Engineers, Appraisers**

All Contractors procured to complete Work as either consultants, architects, engineers, or appraisers will have a minimum ten (10) years-experience related to the Work requirements.

**4. Types and Number of Prior Projects Completed Relative to the Bid Requirements**

Contractors will provide information, at a minimum, on 10 completed projects that are similar in scope to the Qualified Project under bid.

**E. Permits**

Contractors must obtain all permits that are required to complete the Work on a Qualified Project

**F. Licensing**

The Contractor and his/her Subcontractors will hold current all licenses necessary to complete Work on a Project, and mandated or expected by industry, state and local standards and laws relative to the Work Specifications on an awarded Contract.

For example, if the Work Specifications require rewiring an entire home, the Work will be completed by or with oversight of a master electrician holding the licenses necessary to practice his/her trade in the State of Texas.

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G. Financial Capacity

The Contractor will have the financial capacity to procure adequate material, labor and other resources to complete the Project per the Work Specifications and related Contracts of the Project; to finance required insurances, licenses and permits; and to remain in Good Standing throughout the completion of both emergency and non-emergency Qualified Projects.

Financial capacity may be verified through, but not limited to, the following sources or source documents:

1. Letter of Reference From a Financial Institution

A letter of reference from the Contractor's financial institution will be submitted as part of a bid process or for inclusion into the Vendor List. The letter will provide the following business and business-owner information:

- a) The number of times within the most current six-month period that the Contractor has been overdrawn on any account at their bank(s)
- b) The total assets under bank control
- c) The number and amount of each revolving line of credit within past 3 months
- d) Average balance of business account the past 3 and 6 months
- e) Verification of a separation between business and personal accounts

Note: If the Contractor's financial institution refuses or is unable to provide the letter as outlined immediately above, the Contractor will forward financial statements to include net operating income, cash flow, assets and liabilities and any other financial documentation as required by Staff that demonstrates the Contractor has the financial capacity to float rehabilitation Projects through to completion. Audited financial statements are also acceptable.

2. Current Cash Flow Statements

Staff will ensure that Contractor submitting information as part of a bid process or for inclusion into the Vendor List has sufficient cash flow to

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operate his/her business operations for a period of 4 months the current Projects under contract and the Qualified Project to be awarded.

3. Balance Sheet

Staff will ensure that the Contractor and business-owner balance sheet does not indicate a negative net worth that would impact his/her financial capacity to manage and complete any City Project.

4. Audited Financial Statements No Older Than 12 Months (Optional)

Audited financial statements are not a requirement, but if available may be provided per the bid/proposal requirements and/or to be included in the Vendor List.

5. References From Suppliers And Subcontractors

A minimum of three (3) verifiable trade and/or industry references will be provided as part of a completed application package for inclusion into the Vendor List or as part of any bid or proposal process.

6. Credit Reports Of Contractor And Business Owner

Staff will obtain credit reports on both the Contractor and business owner. A minimum credit score of 650 is required of both Contractor and business-owner for inclusion in the Vendor List and to participate in any bid or proposal process. Staff will verify credit qualification criteria annually in writing. Contractors with a credit score less than 650 will be removed from the Vendor List. Notification of the removal will be done by certified mail.

The Contractor must also provide a DUN's number. Contractor may not have more than a 3 rating as verified by DUN and Bradstreet credit report. Staff will automatically disqualify any Contractor having a DUN and Bradstreet credit rating of greater than or equal to 4.

The Contractor will be given ten (10) Calendar Days to address any information on the credit report that the Manager or his/her designee requests. The Manager or his/her designee will, at their discretion, accept the Contractor's explanation.

For Contractors in the process of renewing their participation, if the Contractor's response to the City's credit inquiry is not acceptable, the Contractor will be either placed on probation or suspension, as determined by the Manager. If the determination is to suspend from the Program, the

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Contractor will be given the opportunity to appeal such suspension, as provided for in this policy.

7.      Limitation on Active Construction Projects

Consideration will be given to the number of ongoing Projects the Contractor is managing. Contractors cannot enter into more than three (3) housing rehabilitation Construction Contracts at a time. For the purpose of this section only, Construction Contracts are considered released when an Owner executes the Owner Work Acceptance Form.

8.      Other Financial Information Deemed Relevant by Staff to Complete a Qualified Project

Inasmuch as a proposed Project may have a specific set of additional requirements or complexity with respect to the size of the Project, number of subcontractors needed to complete the work, type of equipment, weather conditions and other factors that will impact related resources and time to finish effectively and efficiently, additional financial information may be requested in the Bid package, or from Staff (when the contractor selection is completed by the Property Owner), to ensure that the Contractor has the financial capability, experience and other resources to complete the Project.

H.      Ethics in Program Contracting

1.      Conflict of Interest

a)      Contractor

No City employee, officer or agent will participate in selection or in the award or administration of a contract supported by CDBG funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when [24 CFR 85.36(b)(3)]:

- i.      the employee, officer or agent;
- ii.     Any member of his immediate family;
- iii.    His or her partner, or
- iv.     An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

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All Contractors will be required to complete the “Affidavit of No Prohibitive Interest and Compliance with City of Plano’s Equal Rights Ordinance” for each Qualified Project awarded as part of the Bid packet. If a Contractor is found in violation of this provision, Contractor will be removed from the Vendor List and prohibited from participating in any bidding process or completion of any Qualified Project.

b) Owner

As Owners are given the opportunity to select Contractors in accordance to the requirements outlined in the Contractor and Construction Management System to complete the Project, Owner and members of the household will not be related by blood, marriage or adoption to any Contractor or employee, agent, officer or Subcontractor thereof in connection to the completion of the Project. All Owners will be required to sign an Affidavit of No Prohibitive Interest.

Staff will inform Owners that the City’s list of Contractors is not an endorsement of those Contractors’ work. The list merely signifies that the Contractors are adequately insured, and have provided references and financial stability information per Program Guidelines.

2. Gratuities, Kickbacks and Use of Confidential Information

Staff, City employees, officers and agents will neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors, potential Contractors, or parties to sub agreements, and will not knowingly use confidential information for actual or anticipated personal gain.

3. Contingent Fees

It is a breach of ethical conduct for a person or entity to be retained, or to retain a person to solicit or secure a CDBG contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee for the purpose of securing business.

I. Good Standing Criteria

1. Vendor List

For consideration in the Contractor selection process, the Contractor must not be categorized as suspended, disbarred or inactive in the Vendor List.

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2. Certificate of Formation

All Contractors will submit a current Certificate of Formation with the Texas Secretary of State. Said certificate will be maintained current while on the Vendor List or when bidding for or completing a Project.

3. Litigation

The Contractor may not have any pending litigation or judgment that impacts the financial ability of the Contractor to complete the Project in accordance to the Construction Contract and any related Federal, State and City laws. Nor may a Contractor have any pending litigation or judgment against the City of Plano, or any Owner receiving CDBG assistance.

4. Criminal Convictions or Indictments

The Contractor may not have any existing criminal convictions or pending indictments that would impact the Contractor's ability to complete the Project in accordance to the Construction Contract and any related Federal, State and City laws.

5. Credit Worthiness and Financial Capacity

Staff will obtain an executed authorization from the Contractor and business-owner to obtain credit and other financial information to fulfill the Good Standing Criteria requirements. Staff will verify not more than once annually the Contractor's minimum credit score requirement for participation in the Program.

6. Bankruptcy

Contractors having a bankruptcy less than five years from dismissal will be disqualified from bidding and removed from the Vendor List. Consideration for reinstatement into the Vendor List will occur five years after dismissal from said bankruptcy.

7. System for Award Management

Contractors (both general contractors and subcontractors) appearing on the System for Award Management (SAM: [www.sam.gov](http://www.sam.gov)) with adverse information are prohibited from participation in the Vendor List and in any invitation for bid or proposal process.

8. Customer Service

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Contractors will exercise “good customer service” at all times. Excessive customer complaints due to failure to return calls, complete warranty repairs as specified in the Construction Contract, utilize poor quality material, complete Work in an unprofessional workmanship manner and manage subcontractors may place the Contractor in Poor Standing and result in suspension or debarment from the Program.

9. Project Administration

Contractors will forward and execute all required Project documents fully completed within the timeframes specified. Excessive submissions of poorly completed documents and forms during the Project construction period cause delays and additional costs to City Program administration. Consistent failure to provide timely and accurate submissions may place the Contractor in Poor Standing and result in limitations on number of work-in-progress Projects, suspension or debarment from the Program.

10. Usage of Warranty Escrow or Loss to City

J. Contractor Debarment

Contractors involved in any warranty dispute resolution that results in usage of the Warranty Escrow, loss to the City, or that the City finds in default of their Contractor Participation Agreement will be permanently barred from participating in the Housing Rehabilitation Program, and, if appropriate, may be subject to legal action by the City.

K. Customer References

Contractors will provide ten (10) customer references not more than two (2) years old as part of the application, bid and/or approval process.

L. Risk

All Qualified Projects will be evaluated relative to risk. Risk includes ability of the Contractor to obtain the appropriate insurance, the Owner’s ability to pay as established in the Loan Underwriting and Approval Policy, the Property meeting the qualification criteria outlined in the Loan Underwriting and Approval Policy, and the extent and the nature of Work to be completed on the Property.

M. Other Guidelines

As applicable, the following Federal guidelines will apply:

1. Minority/Woman-Owned Business Enterprise

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For Projects funded with HOME funds, Per 24 CFR Part 85.36(b), Staff will take affirmative steps to encourage contracting with small minority and female owned business enterprises when possible as sources of supplies, equipment, construction, and services.

At a minimum, Staff will include certified minority business enterprises (MBEs) and women business enterprises (WBEs) on solicitation lists. MBE and WBE may obtain certification through the regional Small Business Administration (SBA) office.

- a) Certified MBE and WBE

Staff may locate certified MBE and WBE on the SBA website at: <http://www.sba8a.com/>

- b) Outreach

Examples of MBE and WBE outreach efforts include:

- i. Assuring that small businesses and MBE/WBEs are solicited whenever they are potential sources.
- ii. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs;
- iii. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
- iv. If any subcontracts are to be executed, requiring the prime Contractor to take the above affirmative steps; and
- v. When economically feasible, including MBE/WBE criteria with additional points in selection criteria for professional services procurements.

2. Section 3

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the City ensures that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing



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residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons. Economic opportunities may include job training, employment, and contracting opportunities for low-or very-low income residents in connection with Projects and activities funded by Community Development Block Grant Programs.

The Community Services Division of the Neighborhood Services Department of the City of Plano will, to the greatest extent feasible, will offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the City's satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

a) Section 3 Parameters

Contracts greater than or equal to \$100,000 will comply, to the greatest extent feasible, with Section 3 requirements.

b) Contractor Reporting

Contractors will provide Section 3 documentation, as outlined in the City's Section 3 Plan at the beginning and completion of each Project.

c) Contractor Monitoring

Staff will perform reviews bi-annually of Section 3 compliance. Contractors will forward to Staff any Section 3 related documents requested by Staff one week prior to the scheduled review.

3. Davis-Bacon Related Acts

The Davis-Bacon Related Acts (DBRA) requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on federally assisted government construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating. All Contractors completing construction work on multi-family Qualified Projects will receive HUD's *A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects—Making Davis-Bacon Work*, in their bid packet. The HUD guide may be downloaded at:

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[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/guidebooks/4812LR](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/4812LR)

a) Davis-Bacon Related Acts – Parameters

All Contractors with Contract Awards on multi-family Qualified Projects that meet the parameters herein will be required to adhere to the requirements of the Davis-Bacon Related Acts: multi-family structures with more than eight units and with expenditures in excess of \$2,000.

b) Construction Contract

In situations where the Davis-Bacon Related Act applies, the Construction Contract will include the Prevailing Wage Addendum and any DBRA forms established by the City to ensure compliance with DBRA.

c) Contractor Monitoring

Staff will perform reviews of payroll submissions and other information to help ensure Contractor compliance with labor standards provisions and the payment of prevailing wages to workers. Staff will forward to on-site workers HUD Form 4730 as part of its monitoring. Contractors will allow Staff access upon request to all records related to the Contract. A copy of HUD Form 4730 will be included as part of the bid package in Projects where Davis-Bacon Related Acts apply.

4. Historically Underutilized Businesses (HUB)

a) Definition

The State of Texas affords Historically Underutilized Business (HUB) an opportunity to complete a certification process in order to receive sub-contracting opportunities.

A HUB is defined as a profit-making corporation, sole proprietorship, partnership or joint venture in which at least 51% of the shares of stock or equitable securities are owned by one or more persons who are members of one or more of the following groups or a business with sole ownership of an individual who is a member of one or more of the following groups:

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- i. Black Americans - includes all persons having origins of Black racial groups of Africa;
  - ii. Hispanic Americans - includes all person of Mexican, Puerto Rican, Cuban, Central or South America, or other Spanish/Portuguese culture or origin, regardless of race;
  - iii. Asian Pacific Americans - includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Territories of the Pacific, or the Northern Marianas; and Subcontinent Asian Americans which includes persons who origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal;
  - iv. Native Americans - includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; and
  - v. American Women - includes women of any ethnicity, except those specified above.
  - vi. Note: A HUB includes MBE or MWE.
- b) Other Requirements
- i. Certification

Contractors may receive HUB certification by contacting Texas Building and Procurement Commission, Business Services Division, P.O. Box 13047, Austin, Texas 78711-3047, (512) 463-5872, by calling toll free at (888) 863-5881 or by e-mail at [purchasing@tabc.state.tx.us](mailto:purchasing@tabc.state.tx.us).

- ii. Day-to-Day Operations

The eligible group member or owner must exercise control over the daily affairs of the business and be active in routine management and administration of the business.

- iii. Outreach

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Staff will, to the greatest extent feasible, conduct outreach activities to and include HUBs in the bid process. Certified HUB Contractors may be found at the Central Master Bidders List (CMBL) by following link below:

<http://www.window.state.tx.us/procurement//cdbl/cdblhub.html>.

Section IV. Vendor List

Staff maintains a list of Contractors. Primary purpose of the Vendor List is to ensure an adequate amount of pre-approved Contractors are available to handle Emergency Repairs and non-emergency repairs where Contractor selection by the Property Owner has been granted.

Contractors on the Vendor List may also compete for non-emergency Qualified Project procurement provided they meet the Contractor Qualifications and the requirements of the competitive process outlined in this policy. Inclusion in the Vendor List does not prevent other contractors and subcontractors from participating in the event of a competitive sealed bid procurement for the Acquisition/Rehabilitation/Resale assistance.

A. Vendor List Application

Inclusion into the Vendor List is not automatic. All Contractors must complete an application and submit said application as specified in the application package. Contractors must also complete a technical interview with Staff as part of the Contractor evaluation and approval process.

B. Supporting Documentation

All Contractors must provide all the required and appropriate documents specified in the application instructions, and within the timeframes specified in said instructions. Failure to provide the documents within the specified timeframe will result in rejection of the said application and exclusion from the Vendor List.

Any Contractors still interested in being included in the Vendor List must complete a new application and provide current documents.

C. Contractor Approval

Staff selects and approves Contractors for either the Vendor List or contracting opportunities based on a set of predetermined factors in accordance with the evaluation system and interview process outlined below.

1. Need Determination

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On a bi-annual basis, Staff will determine if the existing Vendor List has a sufficient number of Contractors to address unforeseen emergency repairs and upcoming Projects. Ideally, three (3) Contractors per trade should be represented on the Vendor List for Emergency related repairs, and at least six (6) general contractor type Contractors for housing rehabilitation Projects.

2. Outreach

As necessary, Staff will conduct outreach activities, as necessary to fill the “Needs Determination” provisions herein, to encourage Contractor including Minority/Woman-Owned Business Enterprise participation and inclusion in the Vendor List.

3. Application Package

Contractors indicating an interest in the Vendor List will be forwarded an application package by mail or e-mail, as preferred by the potential Contractor applicant. Contractors may also download the form and related attachments from the City’s website.

4. Staff Evaluation

All Contractor applications will be evaluated and graded by the designated Staff prior to inclusion in the Vendor List. The evaluation will be based on the factors and the point system listed below. Staff recommendation will be documented on the Contractor Vendor List Evaluation Matrix and Recommendation form. Contractors that achieve or exceed the approved threshold parameters will be added to the Vendor List. Additionally, application from Contractors who do not meet the Good Standing criteria, as outlined herein, will be rejected.

a) Factors

Staff evaluates the Contractor application per the following:

i. Responsiveness (Accept or Reject Application)

A responsive Contractor application is one that includes all the required documentation per the application package. If any required information is missing, the Housing Rehabilitation Supervisor will forward a letter that will include a list of missing documentation to the vendor. The vendor will be given 30 days to forward the required documentation. Contractors who fail to provide the documentation within the timeframe specified in the letter

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will be deemed non-responsive. The HRS will forward a letter declining the application and reasons for said determination.

ii. Responsibility (110 points)

The sixty points will be divided into two criteria as outlined immediately below. A responsible application is one that demonstrates best value. That is, the Contractor has demonstrated that he/she: possesses the financial capacity (70 points); and provides quality workmanship and material (i.e., knowledge, experience, skill and excellent contract administration skills to include but not limited to a history of providing quality labor and material, excellent follow-up, timely completion of Projects, excellent response time, and excellent customer references) to complete the work (40 points).

Evidence of a responsible application package is reviewed in the following manner:

- For Contractor applicants that have not completed any work with the City of Plano, or have completed 3 or less Projects the past 2 years, staff will interview the customer references for quality of workmanship, the number and type of warranty work completed, the type of customer service provided, the Cost Reasonableness, the response time in completing both warranty and non-warranty work, and the quality of materials utilized.
- For Contractor applicants that have completed more than 3 Projects with the City of Plano the past two years, staff will interview the existing Owners whose work was completed under the Program. Staff may also utilize the completed Customer Survey Form in making their determination.

iii. Price (30 points)

Thirty-point grading parameter is utilized when evaluating tradesmen for inclusion in the Vendor List as Emergency Contractors. Staff will review the recommendation of the

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City's Purchasing Department. See Procurement of Emergency Repair Contractors, herein, for additional information.)

iv. Bonus Points (30 Points)

Applicants for the Vendor List may receive additional bonus points for Section 3, MWBE or HUB certifications, as outlined herein.

b) Contractor Evaluation, Verifications and Interviews

Staff will verify the information provided by the Contractor applicant and conduct telephone or one-on-one technical interviews as outlined below.

i. Verifications

- Trade and industry references provided by Contractor will be contacted by either telephone or mail as appropriate.
- Insurance coverages will be verified by a certificate of liability insurance obtained directly from the Contractor's insurance company and by telephone.
- Corporate charter or company will be in Good Standing with the State of Texas.
- Credit and background checks will be conducted via Microbilt and DUN & Bradstreet.
- With respect to previous work completed, the Coordinators will contact the customer and verify the following:
  - Quality of workmanship
  - Timeliness in project completion
  - Warranty type and response
  - Customer service provided

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➤ Professionalism

- Contractor will have the financial capacity to complete all Projects under contract. Staff will obtain authorizations from Contractors to verify any information and documentation provided by Contractors in either the application package, and to conduct reasonable background checks.

Any Contractor refusing to provide such authorization will be prohibited from participating in the Vendor List, any Housing Rehabilitation Project, or providing any professional services under the Program. Contractors are required to sign and forward such releases annually at the time of the Vendor List renewal period.

- Other information requested and provided in the application packet will be verified.
- Discrepancies and Inaccuracies – At the sole discretion of Staff, discrepancies and inaccuracies found during the verification process are grounds for disqualification from and inclusion in the Vendor List, participation in any procurement/bid process, and completing any Work on a Project.

ii. Technical Interviews

The Project Coordinators will schedule a technical interview with Contractor applicants after the Coordinators have completed a review of the Contractor application. At the technical interview, Staff will cover, at a minimum, the topics outlined below:

- Types and scopes of completed projects
- Membership in national organizations such as National Association of Remodeling Industry (NARI), Home & Apartment Builders (HAB), etc.



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- Clarification of issues, concerns, and red flags that have risen from application or bid review
- The percentage of subcontracting work done to complete a project versus amount of work completed in-house
- How the Contractors plan on completing City work
- The type of projects do the Contractors prefer
- The Contractor's specialty

**D. Timeframe for Vendor List Participation**

A Contractor's participation in the Vendor List is good for 12 months from the date of written acceptance by Staff. Contractors are required to update all qualifying information annually one month prior to the end of the 12-month period. Financial and insurance information are updated annually. It is the Contractors responsibility that all qualification information provided in the City's files is current.

As a courtesy to the Contractors, Staff will forward a Contractor Annual Renewal Form one month prior to the expiration date of the Contractor's initial eligibility date to those Contractors on the Vendor List. Contractors will return the completed form with the requested information within fourteen (14) calendar days of the date on the letter but no later than the Contractor's expiration date to the Community Services. Contractors who fail to provide the information within the required timeframe will automatically be removed from the Vendor List and must reapply through the formal application process outlined herein.

Contractors with incomplete or outdated qualification information will be considered out of compliance with the requirements herein and will be suspended from the Vendor List one day after the expiration of the 12-month participation period and notified by mail.

Contractors will be given the opportunity to dispute the suspension in accordance to this policy.

**E. Removal/Suspension from Program Participation**

Contractors may either be removed or suspended from Program participation as outlined below.

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1. Definition

a) Removal

Removal is considered permanent debarment from Program participation. Removal will occur under the following reasons:

- i. Contractors with more than one Suspension;
- ii. Contractor Fraud;
- iii. Criminal activity or convictions that prohibit Project completion;
- iv. Loss to the City. Loss may be attributed to payment from the City funds/Escrow Retainer to complete Projects, resolve Customer complaints, or other financial loss; and
- v. On a case-by-case situation, Contractor Contract Default.

b) Suspension

Suspension is considered non-participation from bidding and completing Qualified Projects, or emergency work for a specific timeframe. The timeframe may range from a minimum period of six (6) months to a maximum period of five (5) years. Suspension is not permanent and may be appealed. Final determination on the length of the Suspension period rests with the Manager. Contractors suspended from the Program will be removed from the Vendor List through the suspension period.

2. Reasons for Removal/Suspension

Contractors may be removed or suspended from the Vendor List and/or from participation in the Housing Rehabilitation Program for any of, but not limited to, the following reasons:

a) Poor workmanship and service performance

Unsatisfactory product quality or service performance, including warranty work, can be a factor in subsequent emergency and non-emergency award determinations. Continued poor performance may be cause for removal from the Vendor List.

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- b) Failure to pay subcontractors;
- c) Failure to make reasonable efforts to honor warranties;
- d) Consistent failure to complete work within the timeframes specified in the Construction Contract;
- e) One failure to complete a Qualified Project within a 12-month period.
- f) Failure to have adequate insurance while on the Vendor List or current insurance during under a Construction Contract, or renew insurance while under contract;
- g) Consistent failure to comply with Housing Rehabilitation Program policies;
- h) Possession or use of illegal or controlled drugs and/or alcohol on the job by the Contractor, Contractor's employees, or any subcontractors;
- i) Falsifying any information provided on or with the Contractor Application;
- j) Contractor default on a Construction Contract;
- k) Contractor failure to maintain a Good Standing status at all times as defined in this policy;
- l) Contractor's failure to provide the necessary qualification documents as provided in the Contractor Participation Requirements Management System;
- m) Criminal conduct;
- n) Fraud or misrepresentation; and
- o) Other acts that jeopardize the integrity of the Program, the safety of the household or poses risk to the City.

3. Determination of Removal/Suspension

Staff recommending removal/suspension of a Contractor from Program participation will provide cause in writing to the Manager and Supervisor for said removal/suspension. The Manager will make the final

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determination in suspending or removing a Contractor from Program participation.

4. Notification of Removal/Suspension

Contractors removed/suspended from Program participation will be notified by certified letter. The letter will be sent to the address listed in the Vendor List. Reasons for removal/suspension from the Vendor List, any information supporting said removal and the opportunity for an informal hearing will be included in the letter.

F. Informal Hearing Process

1. Request for Hearing

Contractors who wish to dispute removal/suspension from the Vendor List may request an informal hearing and will respond in writing by mail within ten (10) Calendar days of the date on the suspension/removal letter. The City's decision to remove or suspend the Contractor will stand in the event the Contractor fails to request a hearing within the timeframe specified.

2. Hearing Date and Hearing Scheduling Letter

The Manager or his/her designee will coordinate with the Suspension Review Board to schedule a time, date and location for the hearing. The date for said hearing will be scheduled no later than thirty (30) Calendar days of receipt of the Contractor's response letter. The Manager will include the hearing date and parameters for the hearing in a Hearing Scheduling Letter (HSL). The Manager will forward the HSL no later than ten (10) Calendar days from receipt of the Contractor's request for an informal hearing.

3. Suspension Review Board

The Suspension Review Board, consisting of the Purchasing Manager, the Director of Finance and the Director of Budget and Research, will preside over the informal hearing process. Present on behalf of the Community Services division will be the Manager, the Supervisor and any Staff involved in recommending the removal, the Contractor, and any person the Contractor feels may provide relevant cause for reinstatement into the Vendor List.

4. Evidentiary Information/Supporting Documentation

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Both, the Contractor and Staff (The Parties) may present evidentiary information/supporting documentation, or have persons/witnesses speak at the hearing.

a) Timeframe

All evidentiary information and a list of attendees will be forwarded to the Suspension Review Board five (5) working days prior to the hearing date found on the HSL.

b) Information

The Parties in the dispute will forward four (4) copies of the representative/ witnesses list and four (4) copies of any evidentiary information, no later than the date stipulated in the HSL. The information will be delivered to the Community Services Manager, Community Services division, Neighborhood Services Department, 7501-A Independence Parkway, Plano, TX 75025.

c) Attendance

The Suspension Review Board will adjourn if the Contractor shows up 15 minutes or more after the hearing has commenced, and the suspension decision will stand.

If the Contractor does not attend the hearing, the suspension/removal will stand. In the event the Contractor is unable to attend the hearing because of unforeseen circumstances, the Contractor may send a representative to speak on his/her behalf. However, the representative must provide a written statement from the Contractor authorizing him/her to do so. Said statement must be forwarded to the Suspension Review Board no later than one working day before the scheduled hearing date.

d) Review

The Board will limit their review of any evidentiary information that is relevant to the reasons cited in removal/suspension letter. No document will be accepted after the due date stipulated in the HSL.

e) Decision

The Board may request a recess to make a decision at the hearing or may select to make a decision after closing of the hearing. If the Board elects the latter, it has up to five (5) days from the date of the hearing to make a determination and forward their decision in writing to the Contractor. The Board's decision will be final.

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G. Contractor Reinstatement

If the outcome of the informal hearing is to reinstate the Contractor, the reinstatement date will be effective five (5) days after said hearing date. The reinstatement notification will be forwarded by regular mail within five (5) days of the hearing to the Contractor at the address on the Vendor List.

The Suspension Review Board may also choose to reinstate the Contractor conditionally provided the Contractor complete certain activities. The Community Services division will be responsible for ensuring Contractor compliance with said activities. If the Contractor completes the requirements/activities within the timeframe and per the instructions of the Review Board, the Contractor will be reinstated at the end of the compliance period. If the Contractor fails to complete said activities and/or requirements, the Housing Rehabilitation Supervisor will forward the Contractor a letter that will include termination language and information related to non-compliance. The Housing Rehabilitation Supervisor's decision is not subject to appeal and will be final.

Section V. Procurement for Non-Emergency Rehabilitation Projects

The term "procurement," as used herein, includes contracts and modifications (including change orders) for services or construction, as well as the purchase, lease, or rental of goods and equipment.

A. Purpose

The purpose of procurement for non-emergency rehabilitation where the City is to award contracts for Projects eligible for Acquisition/Rehabilitation/Resale assistance is to:

1. Provide for the fair and equitable treatment of all persons or firms involved in the procurement process;
2. Assure that goods, services, and construction are procured efficiently, effectively, and in the most favorable prices available to the City;
3. Promote competition in contracting;
4. Provide safeguards for maintaining a procurement system of quality and integrity; and
5. Assure that the City's procurement actions are in full compliance with applicable Federal, State and local laws and regulations, as amended from time to time.

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B. Procurement Type

1. Small Purchase

A small purchase is a relatively simple and informal procurement method utilized for securing services, supplies, or other property that does not cost more than \$100,000 in the aggregate.

a) Examples

- i. Purchase commodities such as equipment and other materials;
- ii. Acquire professional consulting, environmental review, or planning; and
- iii. Excludes construction Projects.

b) Process

i. Solicitation

Staff sends a request to potential Contractors with a detailed description of the goods or services needed. Competitive quotes may be obtained orally (either in person or by telephone), in writing, by facsimile, or as otherwise allowed by Federal, State or local laws and regulations. Contractors solicited may also be obtained from Vendor List

ii. Contractor Response

Staff procurement discussions will consider and include at a minimum:

- Price and discount;
- Commencement and completion dates of Qualified Work;
- Availability of materials and labor;
- Experience to complete the Work;
- Liability insurance requirements;

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- Verification that the contractor is not debarred from Federal contracting opportunities;
- Financial capacity to complete the Scope of Work;
- Ability to complete the work within the timeframe specified in the Project documents;
- Service and warranty requirements; and
- Upon award, a completed W-9 Form.

c) Parameters

Expenditures can be made with a minimum of one quote if the Staff is confident that the price is reasonable. Staff is, however, encouraged to get competitive quotes from a minimum of three (3) sources whenever possible. If practicable, quotations will be solicited from other than the previous source before placing a repeat order.

MBE/WBE or HUBs will be included as part of potential Contractors contacted.

d) Documentation

Information regarding each request for a competitive quote (including, but not limited to, the date and time of each contact, the name of the business contacted, the name of the person contacted, the business' address and telephone number, and the City specifications) will be documented on the Competitive Quotes Form and placed in the procurement transaction file along with copies of each competitive quote obtained. All other correspondence and conversations with sources must also be documented and filed in the procurement Project file.

2. Competitive Sealed Bid

The competitive sealed bidding process is the preferred method of procurement when: a complete, adequate and realistic specification or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the work; and the City is acquiring and rehabilitating Property. It is a bid process requiring



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advertising and open to qualified contractors responding to the announcement. Contractors on the City's Vendor List may also submit bids. Contracts are awarded, per 24 CFR §85.36 and other applicable Federal, State and local laws, to the most **responsive, responsible** bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price.

- a) Content of Bid Package
  - i. Instructions for Completion Form
  - ii. Contractor Application Form
  - iii. Technical requirements
  - iv. Performance standards
  - v. Construction Contract and related attachments
  - vi. Payment instructions and Contractor policies
  - vii. Contractor Participation Agreement
  - viii. Sample Contractor and Owner Survey
  - ix. Other Federal requirements (i.e., verification of non-debarment from Federal contracting, bonding, Section 3, DBRA, HUBs, Minority/Woman-Owned Enterprises, Lead-Based Paint compliance, Equal Opportunity Rmployment Addendum), as applicable

b) Threshold and Process

Sealed bidding should not be used for professional services contracts. The process will include the following:

i. Invitation for Bid and Formal Advertising

An Invitation for Bids (IFB) will include detailed, but not restrictive, specifications and all contractual terms and conditions applicable to the procurement, including a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the IFB.

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The IFB will state the time and place for both the receipt of bids and the public Bid opening. All Bids received will be date and time stamped but not opened, and will be stored in a secure place until the public Bid opening. A Bidder may withdraw its bid at any time prior to bid opening

The first publication must be a minimum 21 calendar days before the date set to publicly open the bids. The publication will include the:

- Property address;
- purpose for the competitive sealed bid;
- location where a bid package may be picked up;
- deadline submission date of the bid;
- contact information of the designated Staff; and
- equal housing opportunity sign.

ii. Pre-Bid conference

The pre-bid conference will provide all potential bidders with the opportunity to review the IFB requirements. The Bid package will provide a time, date and location that the pre-bid conference will take place. All Bidders are required to attend.

At the conference, a verbal statement will be made that “any change in IFB terms or specifications resulting from conference discussions will be described in a subsequent written amendment.” A summary of the conference discussions will be sent to all those who attended the pre-bid conference. Bids will not be accepted from bidders that do not attend the pre-bid conference.

The purpose of the pre-bid conference is to clarify any bidder issues and concerns relating to the following:

- The bid package and process
- The Work Specifications

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- Evaluation criteria relating to Contractor selection—lowest responsive, responsible bid
- Inspection process
- Payment
- Other Program parameters, requirements and policies

iii. Pre-Bid Walk-Through

Contractors and their subcontractors will be given adequate notice and afforded the opportunity to walk-through the proposed construction Project. The pre-bid walk-through date will be included in the bid package. Bids will not be accepted from bidders/subcontractors who do not attend the walk-through. No other opportunity to reschedule another walk-through will be provided.

iv. Deadline Submission

All competitive sealed bids must be delivered or mailed on or before the deadline submission date included in the bid package. No faxed or e-mailed bids will be accepted. No competitive sealed bid packages will be accepted after the deadline submission date.

The bids will be forwarded to Staff at the Neighborhood Services Department, City of Plano, 7501-A Independence Parkway, Plano, Texas 75025. Staff will date and time stamp receipt of the bid package. The package will be forwarded on the date received to the Supervisor for safekeeping until the bid opening date.

v. Mistakes in Bids before Opening

Correction or withdrawal of inadvertently erroneous bids may be permitted where appropriate before the bid opening date by written notice received in the location designated in the IFB prior to the submission date and time.

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Contractors will be encouraged to carefully review all bids prior to submitting. Incorrect bid documents/submissions may disqualify the bidders' bids.

vi. Bid Opening

Bids will be opened publicly and in the presence of at least one witness. Bid openings occur at the date, time and location stipulated in the bid package. The bid package will be date and time stamped again on the bid opening date. An Abstract of Bid Results will be recorded. Bids will only be available for inspection after the Contract Award date.

If only one responsive bid is received from a responsible bidder, the City may either accept or cancel the IFB and negotiate with the sole bidder; however, an award will not be made unless a cost or price analysis verifies the reasonableness of the price. The City may also elect to re-bid the Project.

No commitment will be made to any bidder at the bid opening. To avoid confusion, it is recommended that issues raised by bidders at the opening will be taken under advisement and a decision resolving any questions or disagreements should be deferred until the Staff or designee has reviewed all pertinent facts during the evaluation process.

vii. Late Bids

Any sealed bids received after the deadline submission date noted on the bid package must be recorded as a late bid and returned to the bidder unopened.

viii. Automatic Bid Rejection

- Number of Projects Under Contract or Construction

The criteria of limiting three (3) housing rehabilitation Construction Contracts will not apply to contractors bidding under the competitive sealed bid process.

- Contractor Good Standing Status

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The Contractor from the Vendor List who submitted a bid must be in Good Standing status no later than the submission date of the bid package. No bid package will be accepted from a Contractor that is not in Good Standing (as defined herein), debarred or suspended from the Program.

ix. Construction Contract Cancellation

In the event of a winning bidder cancels the Construction Contract for a Project eligible in the City's Acquisition-Rehabilitation-Resale assistance, the City will select the next most responsive, responsible bid. If no such bid exists, at the City's discretion new bid process will be initiated.

x. Bid Analysis System

The bid analysis system is a process through which the Staff evaluates bidders and selects a Contractor for the completion of the Acquisition/Rehabilitation/Resale Project.

No bid evaluation will include a cost versus profit analysis. Staff will complete a Vendor Procurement Evaluation Matrix and Recommendation Form as part of the bid analysis process. The bid analysis will conform to the parameters outlined in this policy and the additional requirements listed below:

- Responsiveness (50 points)

Responsiveness refers to inclusion of appropriate and required information documents (i.e., insurance certificate, financial information, licensing, affidavits, memberships, references, etc.) per the bid package instructions.

Both Contractors from the Vendor List and outside Bidders may submit bids. Contractors included in the Vendor List who have submitted a bid may complete an abbreviated qualification, provided that the missing documentation, as required per the bid package, is current and available in the City's Contractor file for review by Staff on the day of the bid opening date. No other preference is afforded

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Contractors on the Vendor List in the bid submission.

Note: Staff may automatically reject bids or applications if excessive omissions of documentation are so unclear, disjointed or incomplete, as determined by Staff, that a thorough review and analysis cannot reasonably be performed. Any application deemed ineligible pursuant to this section, will be disqualified without the opportunity for correction of administrative deficiencies.

- Responsible Bid Analysis (110 points)

A responsible Bidder is one who has the customer service follow-up, experience, knowledge and financial capacity to complete the Work per the Contract and Work Specifications.

- Price (120 points)

Any bid may be recommended for rejection if the prices for any items are materially unbalanced. A bid is materially unbalanced if there is reasonable doubt that the bid would result in the lowest overall cost to the City, even though it is the lowest bid. For example, a bid is grossly unbalanced if its acceptance would be equivalent to providing an advance payment (such as bidding a very high price for the first items to be provided and extremely low prices for subsequent items). A bid may also be grossly unbalanced if staff experience indicates its acceptance may result in various change orders that would increase costs to the City through the completion of the Project.

Price evaluation will include the following parameters:

- Bid threshold

Staff will reject any Bid that is 10 percent above the Cost Reasonableness by line-item and 10% of the entire Cost Reasonableness. If all the competitive sealed bids are 10

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percent above, the Project will be re-bid to all those contractors who submitted written bids under the competitive sealed bid process. If the bids remain above the 10 percent threshold, the lowest most responsive, responsible bid will be selected provided all other bid criteria are met.

- Bids below 10 percent of Staff Estimate

Staff will reject bids that fall 10 percent below the Cost Reasonableness.

- Discounts

Factors such as discounts, transportation cost, and life cycle costs will be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken. [24 CFR 85.36(d)(2)(ii)(D)]

- Federal Requirements (30 points)

Certain Acquisition/Rehabilitation Projects may require conformity with the following Federal laws as outlined in this policy:

- Minority/Woman-Owned Enterprise
- Davis-Bacon Related Acts
- Section 3
- HUB

3. Competitive Proposals

a) Definition

i. Competitive Proposals

Competitive proposals are primarily utilized to procure professional services. A service is one that uses a skill that is predominantly mental or intellectual, rather than physical

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or manual. In a Competitive Proposal, more than one source submits an offer and either a fixed-price or cost-reimbursement type of contract is awarded, as appropriate.

Competitive proposals will be used for all professional contracts, not deemed emergency or construction in nature.

ii. Competitive Sealed Proposals

Competitive sealed proposals may be used if there is an adequate method of evaluating technical proposals and where the Staff determines that conditions are not appropriate for sealed bids, such as when specifications are not easily defined and other factors along with price must be considered. An adequate number of qualified sources will be solicited.

b) Purpose

Awards are made to the responsible firm whose proposal is most advantageous to the Program, with price and other factors considered.

c) Architectural/Engineering Contract Awards

With respect to architectural/engineering (A/E, i.e., architects, engineers and land surveyors) professional services, competitors' qualifications will be evaluated and the most qualified competitor is selected, subject to negotiations of fair and reasonable compensation. When procuring A/E firms, price is not used as a primary selection factor.

Staff will not use A/E companies as a potential source to purchase other types of services.

i. Examples A/E professional service contracts include, but are not limited to:

- Abstractors
- Architects
- Engineers
- Construction managers



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- Land surveyors
- Consultants

d) Requirements of Competitive Proposals

i. Advertisement

RFPs will be publicized. Proposals will be solicited from an adequate number of qualified sources and an advertisement must be published a minimum 21 days prior to submission.

ii. Proposal Package

A mechanism for fairly and thoroughly evaluating the technical and price proposals will be established before the solicitation is issued and included in the Proposal Package.

The RFP will identify the general Scope of Work and all significant evaluation, including price were appropriate, and their relative importance. At a minimum, the proposal package will include:

- Contractor Information Form
- Financial data utilized to determine financial capacity to perform and complete the work
- Proof of insurance
- Licenses
- Response to technical requirements
- Other information included in the proposal package

iii. Opening Proposals

Opening of proposals are not done in a public forum. Proposals will be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals. The proposals will be evaluated only on the criteria stated in the RFP.

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iv. Evaluation Factors

The Request for Proposals (RFP) will clearly identify the relative importance of price and other evaluation factors and sub factors, including the weight given to each technical factor and sub factor.

If creating Technical evaluation factors fall outside Staff knowledge and experience, Staff may procure a consultant to write the required proposal specifications.

The following evaluation and point system will be utilized in selecting professional service firms:

- Responsive (30 points)

As appropriate, all insurances per the Proposal Specifications, and the Contractor Qualification criteria outlined herein.

- Negotiations (10 points were appropriate)

Unless there is no need for negotiations with any of the offerors, negotiations will be conducted with offerors who submit proposals determined to have a reasonable chance of being selected for award, based on evaluation against the technical and price factors as specified in the RFP. Such offerors will be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals.

The purpose of negotiations will be to seek clarification with regard to and advise offerors of the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements.

No offeror will be provided information about any other offerors' proposal, and no offeror will be assisted in bringing its proposal up to the level of any other proposal. Offerors will not be directed to reduce their proposed prices to a specific amount in order to be considered for award. A common deadline will be established for receipt of proposal

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revisions based on negotiations.

- Technical Evaluation (60 points)
  - Knowledge and skill
  - Education/certificates, for example and appraiser would be MAI certified
  - Appropriate licenses active and in good standing with the State certifying entity
  - Industry membership
  - Ten (10) years of experience performing the work under procurement
  - 10 industry/trade references
  - 10 customer references
- Other Factors

Proposals will be automatically rejected for the following reasons:

- Number of service contracts with the City under management

Contractors are limited to work on no more than three (3) service contracts simultaneously at any given time. Proposals from any Contractor with more than three (3) service contracts under the City will not be accepted.

- Contractor Default
- Contractor not in Good Standing status
- Contractor Fraud

- v. Solicitation from an adequate number of sources

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Consideration will also be given to:

- HUBs
- Minority, Woman Business Enterprises

e) Contractor Selection for Competitive Proposals

Unless otherwise specified under the Competitive Proposal provision of this policy, Contractors with a score less than or equal to 69 points will not be considered.

f) Compliance with Other Federal Guidelines, as applicable

- i. Section 3
- ii. Minority Woman-Owned Businesses
- iii. DBRA, as appropriate
- iv. HUBs

4. Non-Competitive Proposals

a) Conditions for Use

Procurement will be conducted competitively to the maximum extent possible. Procurement by non-competitive proposals may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, or competitive proposal methods and one or more of the following applies:

i. Single Source

The item is available only from a single source, based on a good faith review of available sources;

ii. Emergency Condition

An emergency exists that seriously threatens the public health, welfare, or safety, or endangers Property, or would otherwise cause serious injury to the City, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event.

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In such cases, there must be an immediate and serious need for goods, services, or construction such that the need cannot be met through any other procurement methods, and the emergency procurement will be limited to those goods, services or construction necessary to meet the emergency; HUD authorizes the use of non- competitive proposals; or after solicitation of a number of sources, competition is determined inadequate.

b) Justification for Use

Procurement based on non-competitive proposals will be supported by a written justification for using such procedures. The justification will be approved in writing by the Supervisor.

c) Price Reasonableness

The reasonableness of the price for all procurements based upon non-competitive proposals will be determined by performing a cost analysis, as described herein.

C. Specifications

The term Specifications refers to all Work, service, documentation and other contract requirements outlined in the IFB or IFP. All specifications will be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying the City's needs. Specifications will be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items. Functional or performance specifications are preferred. Detailed product specifications related to brand preference will be avoided whenever possible. Consideration will be given to consolidating or breaking out procurement to obtain a more economical purchase.

1. Specification Standards

a) Housing Standards

Specifications will be aligned with the Housing Standards; and rehabilitation funds will be used for those repairs necessary to bring the structure up to Housing Standards, as outlined herein.

b) Quality Assurance Affidavit

To ensure that Contractors provide quality labor, the following language will be inserted as a Work Specifications with a Contractor signature line:

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“The general contractor is expected to provide adequate supervision and direction of the work. Work will be completed by qualified, experienced individuals, specialized in their field. Inexperienced laborers should not be utilized unless assisting a master craftsman through the entire job.”

This additional language will act as a Quality Assurance Affidavit. A signed copy of this document will be included in the Owner file.

c) Other

Housing Standards Projects rehabilitated with Acquisition/Rehabilitation/Resale assistance will be meet the City’s Housing Standards Policy outlined herein.

D. Cost/Price Analysis

1. Non-A/E Proposals

With respect to Competitive Sealed Proposals, Staff will conduct a Cost Reasonableness before receiving and reviewing said proposals, and negotiating contract parameters and price. On all other non-sealed proposals a cost/price analysis will be conducted as outlined below.

a) Cost Analysis

A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product/price sold in substantial quantities to the general public or based on prices set by law or regulation.

b) Price Analysis

A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

2. A/E Proposals

Under the laws of the State of Texas (V.T.C.A., Government Code §2254.004) the professional services of an architect, engineer, or surveyor must be obtained by qualifications-based selection procedures. Sealed bidding will not be used to obtain these services. Under qualifications-based selection procedures, competitors' qualifications are evaluated and

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the most qualified competitor is selected, subject to the negotiation of fair and reasonable compensation. Price is not used as a selection factor under this method. Qualifications-based selection procedures will not be used to purchase other types of services even though architectural, engineering, or surveying firms are potential sources.

Staff will first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, Staff will formally end negotiations with that provider; select the next most highly qualified provider; and attempt to negotiate a contract with that provider at a fair and reasonable price.

Staff will continue the process described hereinabove to select and negotiate with providers until a contract is entered into.

**E. Bid/Proposal Evaluation Threshold**

Staff evaluates bids and proposals in accordance to the grading parameters below.

**1. Evaluation Grading Parameters**

The grading parameter and related thresholds below will be included in the Final Evaluation Matrix and Recommendation Form for all contractual evaluations:

- a) Excellent (100 + percentage points)
- b) Good (90-99 percentage points)
- c) Satisfactory (80-89 percentage points)
- d) Fair (70-79 percentage points)
- e) Poor (69 or below percentage points)

**2. Contract Award**

Staff will reject all bids and proposals scoring 69 percentage points or less. If all grading scores on Bids or Proposals packages are between 70 and 79 percentage points, the City at its sole discretion may reject all Bids/Proposals and re-procure the Project.

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F. Competitive Sealed Bid and Proposal Team Review/ Recommendation

1. Bid/Proposal Analysis Team

The bid/proposal analysis team is a group of designated Staff that evaluates competitive sealed bids and proposals in accordance to the evaluation parameters outlined in this policy. The team is selected on a rotating basis.

2. Team Size Requirements for Acquisition/Rehabilitation/Resale Projects greater than or equal to \$40,000

For Acquisition/Rehabilitation Projects/proposals greater than or equal to \$40,000, the bid analysis team will consist of four persons—the Facilitator, two Project Coordinators and one Coordinator. The members and roles are outlined below.

a) Facilitator

The Facilitator presides during the opening of the bids/proposals and ensures that the bid/proposal process is in compliance with the requirements established herein. The Facilitator is the CS Manager or Supervisor. Responsibilities of the Facilitator include:

- i. Ensuring compliance with this policy
- ii. Opening and dating the submitted competitive sealed bids on the date specified in the bid package
- iii. Provide procedural guidance to Staff
- iv. After the contract has been awarded, ensuring bid file completeness in accordance to the File Management System.

b) Project Coordinator

The Project Coordinator's responsibilities include:

- i. Ensuring completeness of bid/proposal documents;
- ii. Comparing the sealed bid with the Work Specifications, or negotiating with offerors regarded submitted proposals;



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- iii. Evaluating the responsiveness of the bid/proposal submitted by the contractor and/or subcontractors and offeror;
- iv. Analyzing the construction aspects of the proposal; and
- v. Completing the evaluation form.

c) Housing and Community Services Coordinator

The Housing and Community Services Coordinator's responsibilities:

- i. Taking minutes;
- ii. Ensuring completeness of bid/proposal documents;
- iii. Comparing the sealed bid with the Work Specifications, or negotiating with offerors regarded submitted proposals;
- iv. Evaluating the reasonableness of the bid submitted by the contractor and/or subcontractors, and offeror;
- v. Analyzing the technical aspects of the proposal; and
- vi. Completing evaluation form.

3. Team Size Requirements for Acquisition/Rehabilitation/Resale Projects less than \$40,000

For Acquisition/Rehabilitation Projects less than \$40,000, the bid analysis team will consist of the Supervisor, one Project Coordinator and one Coordinator. Their duties are outlined below:

a) Project Coordinator(s)

The Project Coordinator's responsibilities include:

- i. Ensuring completeness of bid/proposal documents;
- ii. Comparing the sealed bid with the Work Specifications, or negotiating with offerors regarded submitted proposals;

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- iii. Evaluating the responsiveness of the bid/proposal submitted by the contractor and/or subcontractors, and offeror; and
- iv. Completing the evaluation form.

b) Housing and Community Services Coordinator (HCSC)

The Housing and Community Services Coordinator's responsibilities:

- i. Taking minutes;
- ii. Ensuring completeness of bid/proposal documents;
- iii. Comparing the sealed bid with the Work Specifications, or negotiating with offerors regarded submitted proposals;
- iv. Evaluating the reasonableness of the bid submitted by the contractor and/or subcontractors, and offeror; and
- v. Completing evaluation form.

G. Award Notification

1. Equal Low Bids

If equal low bids are received from responsible bidders the award will be made by drawing lots or by use of a similar random selection method unless otherwise provided in State or local law and stated in the IFB.

2. Conditional Award of Contract

A Conditional Award of Contract will be made in writing to the bidder at the time the determination is made (in the case of an Invitation for Bids) as to who is the lowest responsible and responsive bidder whose bid meets the requirements of the IFB, or (in the case of a Request for Proposals) as to who is the responsible firm whose proposal (qualifications, price and other factors considered) is the most advantageous to the City.

a) Examples

The conditions of the award may include (but are not limited to) the following:

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- i. The bidder/proposer providing proof of all required insurance coverage and meeting other risk management criteria;
- ii. Providing indemnification of the City, its commissioners, officers, directors, employees and volunteers;
- iii. Completing and forwarding the Sub-Contractor Listing to Staff;
- iv. Forwarding any permits and/or licenses of the HVAC, lead-based paint, plumbing, pest control or electrical workers as required per the Work Specifications to complete work on the Qualified Project; and
- v. Such other due diligence as may be required in the bid package.

3. Timeframe of Conditional Award of Contract

The Contractor will be given seven (7) working days from the effective date of the condition to complete, if any, required conditions. Staff will contact the next most responsive, responsible bid if the Contractor fails to complete the required condition within the specified timeframe.

4. Contract Award

a) Cure Conditional Award Requirements

The Conditional Award of contract is removed the day the Contractor completes all the required conditions, if any, provided they were removed within the specified timeframe hereinabove. Staff will not complete a Contract Award to any Contractor who fails to cure all the conditions listed in the Conditional Award.

Contractors who do not complete the required conditions will be notified in writing of said failure. No opportunity for a hearing will be given. Staff will forward a new Conditional Award to the next lowest responsive responsible bidder, until such time as next bidder/proposer has successfully completed the requirements of the Conditional Award.

b) Contractor Listing

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A Sub-Contractor Listing is a full and complete listing of all persons or entities that will render services or supply materials in connection with the Qualified Project. The Sub-Contractor Listing will be submitted to Staff prior to the execution of the Contract Award. Staff will ensure that no Subcontractor is prohibited from Federal contracting as determined in the [www.sam.gov](http://www.sam.gov) website.

c) Permits

Permits, if necessary, will be submitted prior to the execution of the Construction Contract. Contracts will not be executed with Contractors who fail to obtain and submit the necessary permits per the Conditional Contract Award.

d) Construction Contract

After the terms, if any, of the Conditional Award have been completed as specified herein, Staff will forward the winning bidder/proposer the Contract Award.

e) Notice-to-Proceed

The Notice-to-Proceed is a document that provides the Contractor a date certain to commence the Project.

5. Unsuccessful Bidder/Proposer

a) City Procurement

The unsuccessful bidding/proposing firms are notified in writing within ten (10) Calendar days after Contract Award. Rejection of any bid/proposal during the review process must be fully documented in the procurement transaction file. Staff will return the original sealed bid information to the losing bidders. Staff will keep copies of the original documents in a file for a period of four (4) years from the date of the notification letter.

b) Owner Procurement

Upon notification by the Owner that he/she has selected a Contractor, the Owner, or City at the request of the Owner, may forward an Unsuccessful Award Letter on behalf of the Owner. For Owner-occupied projects where Owner's select the winning bidder, notification by the City to the non-winning bidders is not required .

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H. Evaluation of RFPs

RFPs will be evaluated as outlined herein.

I. Amendments to Invitation for Bid (IFB) or Request for Proposals (RFP)

If a change to the IFB/ RFP becomes necessary after it has been issued, the Supervisor or his/her designee will prepare the change by issuing a written amendment. The amendment must identify the particulars and issue date of the original IFB/ RFP. Copies of the amendment must be mailed (by certified mail return receipt requested) to each prospective bidder that was sent the notice of the IFB/ RFP and must be included in all IFB/ RFP packages to be issued during the balance of the solicitation process. The Supervisor or his/her designee will include a copy of the amendment in the procurement transaction file.

If an amendment is not issued with sufficient time to allow prospective bidders to properly respond to the amendment, the bid opening will be postponed for an adequate period of time to permit the bidders to fully analyze the change and submit timely bids.

J. Cancellation of the Invitation for Bid (IFB) or Request for Proposal (RFP)

1. Reasons

a) Cancellation of IFB or RFP before Submissions

- i. The City no longer requires the goods, services, or construction;
- ii. The City can no longer reasonably expect to fund the procurement;
- iii. The Proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable; or
- iv. Other similar reasons.

An IFB or RFP may be cancelled before the bids are due if:

b) Cancellation of IFB or RFP After Submissions

A solicitation may be cancelled and all bids or proposals that have been received may be rejected if:

- i. The goods, services, or construction are no longer

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required;

- ii. Ambiguous or otherwise inadequate specifications were part of the solicitation;
- iii. The solicitation did not provide for consideration of all factors of significance to the City;
- iv. Services exceed available funds and it would not be appropriate to adjust quantities to come within available funding;
- v. There is reason to believe that bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or
- vi. For good cause of a similar nature, or when it is in the best interest of the City.

2. Notification

In the event of a cancellation of IFB or RFP, all bidders submitting bids will be contacted in writing. The reason(s) for the cancellation will be documented in the procurement transaction file and the reasons for cancellation or rejection will be provided upon request to any member of the public.

A notice of cancellation will be sent to all businesses solicited or which submitted a bid or proposal, and, if appropriate, will explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items.

If all otherwise acceptable bids received in response to an IFB are at unreasonable prices or only one bid is received and the price is unreasonable, the City will cancel the solicitation and either:

- a) Re-solicit using an RFP; or
- b) Complete the procurement by using the competitive proposals method described hereinabove (when more than one otherwise acceptable bid has been received), or by using the non-competitive proposals method described hereinabove (when only one bid is received at an unreasonable price); provided, that the Contracting Officer determines in writing that such action is appropriate, all

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bidders are informed of the City's intent to negotiate, and each responsible bidder is given a reasonable opportunity to negotiate.

K. Public Access to Procurement Information

Procurement information will be a matter of public record to the extent provided in the Public Information Act (Section 552.001 et seq. of the Texas Government Code – formerly known as the Texas Open Records Act) and will be available to the public as provided in that statute, as such may be amended from time to time, and per City policy.

Section VI. Procurement of Emergency Repair Projects

The key to successful Emergency Repairs assistance is Staff's ability to locate adequate resources to complete the needed emergency repairs in a timely manner, while at the same time protecting the public health, safety of the Owner and preserving the integrity of the Property, whenever feasible, within the parameters established in the Program.

A. Definition

HUD provides guidance outlined below in assessing if a condition is deemed emergency.

1. Serious or Immediate Threat

The condition poses a serious and immediate threat to the health or welfare of the community, which are of recent origin or recently became urgent.

2. Recent Origin

An emergency is of recent origin, that is, a condition or situation that occurred recently (generally within two weeks) without warning.

3. Inability to Finance

The Owner is unable to finance the activity on its own

4. Lack of Other Funding Sources

Other sources of funding are not available. Other funding may include the Owner's own homeowner's insurance.

B. Response Time

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Staff will take immediate action and cure/abate the emergency between 24 to 72 hours.

C. Contractor Selection for Projects Qualified to Receive Emergency Repair

1. Procurement for Emergency Repairs Contractors

Community Services work closely with the City's Purchasing Department to procure the services of tradesmen to complete Emergency Repairs. Staff will utilize the BidSync System in advertising for Emergency Contractors, as well as the Housing Rehabilitation' Vendor application form. Emergency Contractors will meet the Contractor Participation Requirements, herein. The Purchasing Department will forward at summary of the tradesmen application that includes a ranking of pricing proposals. CS Staff will grade the Emergency Contractors per the Vendor List Evaluation Matrix and Matrix. The three most responsive, responsible tradesmen with the lowest proposals will be placed on the Vendor List as Emergency Contractors.

2. Price Agreements

Emergency Repairs are completed by Contractors appearing on the Vendor list who have executed Price Agreements with the City to perform such Work. Price Agreements vary per trade and no standard form exists. Generally, Price Agreements include three one-year options to renew the Agreement.

3. Contractor Selection in Completing Emergency Repairs

With respect to Emergency Repairs, Emergency will be selected on a rotating, availability and relevance basis, and compensated in accordance to the respective Price Agreement Terms on file. In the event an emergency situation arises where the City has no price agreement with a competent tradesman to complete the required emergency Work, Staff will utilize a general contractor from the Vendor List on a rotating basis to complete the Emergency Work.

4. Renewal of Price Agreements

One month prior to the expiration of the Price Agreement, Contractors must provide updated qualification information at the request of the Housing Rehabilitation Supervisor (HRS). The HRS will review the Emergency Contractor's performance for the previous year to ensure quality and timely completions, conformance with the terms of the agreement, and complaints, if any, were received during the term. Options to renew are at the sole discretion of the City. Additionally, Staff



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will not renew Agreements for Contractors who failed to abide by the terms of the Agreement, provided poor customer service and warranty follow-up, have a history of completing and submitting inaccurate invoices, and do not conform to the City's Good Standing criteria herein.

At a minimum, the Contractors or tradesmen interested in completing Emergency Work and placement on the Vendor List will meet the qualifications outlined in Chapter II, Part III, Section III, herein.

D. Process

Staff will follow the process below in completing emergency repair work.

1. Inspection

The emergency inspection will be completed within 24 hours after the Owner has met eligibility parameters, per Program Guidelines, by the Project Coordinator. Staff will take photographs for inclusion into the Project file.

2. Determination of Emergency Need

a) Inspection

On the date of the emergency inspection, Staff will ensure that the Owner completes a Certification for Emergency Repair prior to commencing the work. Said certificate will be included in the Owner file.

b) Allowable Repairs

Only repairs or actions necessary to safeguard against imminent danger to human life, health or safety, or to protect Property from further structural damage will be permitted.

c) Lead-Based Paint

i. Exemption

If necessary, occupants will be protected from exposure to lead in dust and debris generated by such emergency actions as natural disaster, fire or structural collapse. The other lead-based paint requirements of 24 CFR 35 Subparts B through R will not apply to repairs necessary to respond to the emergency. However, any repair or work undertaken

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subsequent to, or above and beyond such emergency action, Subparts B through R will apply.

- ii. Price of work in excess of \$5,000

In the event the cost of the Work exceeds \$5,000, a higher level of lead-based paint inspection will be required. The high level includes risk assessment, testing, stabilization of the deteriorated paint, control of the lead-based paint hazard or abatement, as appropriate.

3. Minimum Qualification for Emergency Repairs

On the date of the emergency need, the Owner requesting the Emergency Repair must qualify per Program guidelines. Owner will meet with Staff and complete an application form and submit the required paperwork. An abbreviated qualification will be completed, as outlined in the Owner Participation Requirements.

4. Ownership Verification

Staff will utilize county records information available online or documents provided by the Owner to verify Property ownership as part of the Owner qualification process and prior to commencing the emergency work.

E. Other Parameters of Emergency Qualified Projects

- 1. Only one emergency repair per Owner per 12-month period will be completed, and up to two lifetime per Property.
- 2. Owners will not be required to repay any Emergency Work completed.

F. Price Agreements

Price Agreements are a requirement of all tradesmen who are listed on the Vendor List and interested in completing emergency work. The Price Agreements are a firm-fixed price contract negotiated with the tradesmen prior to acceptance into the Vendor List.

1. Purpose

The agreements ensure the maximum value to the Owner and the City and a readily available source of qualified tradesmen to immediately address emergency repairs while simultaneously reducing the procurement timeframes required under the housing rehabilitation.

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2. Execution Date

The Price Agreements will be executed a week prior to the date the tradesmen are placed on the Vendor List.

3. Terms

The terms of the agreements vary on actual need, type of trade and number of Contractors that successfully qualified and were selected for the Vendor List.

Section VII Contractor Contract Default

A. Default Status

With respect to Limited Repairs, the Contractor will be considered in default after:

1. The Owner has given the Contractor a written notification of the Owner's intention to declare the Contractor in default; and
2. The Contractor has been given five (5) working days to cure said default; and
3. The Contractor has failed to cure said default to the satisfaction of the Owner.

B. Reasons for Default

The Contractor may be declared in default for occurrences such as but not limited to the following:

1. Failure of the Contractor to start the work within the timeframes specified on the Contract for Repair or Construction Contract, as appropriate;
2. Substantial evidence that the progress of the work being made by the Contractor is insufficient to complete the work within the specified working time;
3. Failure of the Contractor to provide sufficient and proper equipment, materials or construction forces to properly execute the work;

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4. Substantial evidence that the Contractor has abandoned the work or discontinued the Work or any part thereof and failure to resume performance within reasonable time after notice to do so;
5. Substantial evidence that the Contractor has become insolvent or bankrupt, or otherwise financially unable to carry on the work;
6. Deliberate failure on the part of the Contractor to observe any requirements of the Construction Contract, as appropriate, or to comply with any orders given by the Owner provided for in the Contract;
7. Substantial evidence of collusion for the purpose of illegally procuring a contract or perpetrating fraud to the Owner in the construction of Work under the terms of the Construction Contract;
8. Repeated and flagrant violations of safe working procedures; or
9. Filing litigation against the Owner prior to final completion of the Work.

**C Contractor Payment in Event of Default**

When the Work is suspended due to Contractor Default, the entire Fund, any part thereof, or balance remaining therein will be utilized for Completion of the Project. See Contractor Compensation for additional details.

**Section VIII. Contractor Compensation**

Contractors may elect to be paid on a draw versus end-of-Project basis. Payment will not be made for any work not included in the Work Specifications, or any work not included in an approved Change Order.

**A. Draw or Single Payment**

All Contractors must request payment by presenting an invoice. Payment for either a draw or one single final payment occurs after:

1. The Work or Technical Specifications have been completed by the Contractor; passed by the Project Coordinator, Supervisor and Building Inspection inspector (as required); and approved by the Owner; and
2. The invoice(s) has(have) been reviewed and reconciled with the Work Specification and Construction Contract by the Project

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Coordinator, Coordinator and Supervisor, and signed off by the Supervisor.

B. Payment of Invoices and Thresholds

1. Invoice Content

When submitting an invoice for payment, the invoice must have a description of the items that have been completed and enumerated per the original Work Specifications numbers.

2. Change Orders

Neither one single change order nor the aggregate of all the change orders will exceed twenty-five percent (25%) of the entire Award Contract. Should the need arise to exceed the Award Contract by more than 25%, the Work will be stopped and re-bid per the requirements of this policy.

3. Warranty Escrow

The Contractor will agree that the City will hold a Warranty Escrow of 10% for Rehabilitation Projects' Construction Costs and 5% for Reconstruction Projects' Construction Costs of the compensation amount due the Contractor in escrow for a period of 12 months commencing the date of the execution of the Owner Work Acceptance form. The Escrow is calculated on per line-item completed per draw basis.

Full compensation for the Project will include any and all remaining Escrow balances will be held no more than fourteen (14) days after the expiration of the Warranty Escrow period.

All remaining balances will be paid post-closing of the Project according to the following schedule:

- a) Thirty Calendar Days after execution of Owner Work Acceptance

Thirty calendar days after execution of the Owner Work Acceptance (OWA) City will pay Contractor 2% (1% of the Reconstruction Projects) of the total Project Construction Cost held in escrow, If the Contractor has properly forwarded, completed and executed all close-out documents, lien waivers, invoices, draw request, DBRA, and Section 3 documentation. Should Contractor fail to meet the (30) day timeline, City will roll the 2% (1% for Reconstruction Projects) due to the end of the twelve (12) month Warranty Escrow Period.

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b) Six Months after Execution of the Owner Work Acceptance

Six months after execution of the Owner Work Acceptance (OWA) City will pay Contractor 5% (2% for Reconstruction Projects) of the total Project Construction Cost held in escrow, If City has not received any warranty complaints from the Owner and there are no unresolved, pending, or ongoing warranty disputes resolutions. Should Contractor have any ongoing, unresolved or pending dispute resolutions, City will roll the 5% (2% for Reconstruction Projects) due to the end of the twelve (12) month Warranty Escrow Period.

c) Twelve Months after Execution of the Owner Work Acceptance

Twelve months after execution of the Owner Worker Acceptance (OWA) City will pay the Contractor 3% (2% for Reconstruction Projects) of the total Project Construction Cost held in escrow or the remaining balance, if the City has not received any warranty complaints from the Owner and there are no unresolved, pending, or ongoing warranty disputes resolutions.

d) Deductions from Warranty Escrow

At the end of the twelve (12) month Warranty Escrow period, the City will be allowed to deduct from Contractor's payment any amount paid by City for warranty repairs resulting from a warranty dispute resolution.

e) Bonds

Warranty Escrow is not collected for Projects required to carry—per Federal regulations and/or State law—surety bonds in the form of performance, payment, and/or maintenance bonds.

4. Draws

Draws are paid as Contractors present invoices. Contractor invoices will be attached to either a Reconstruction Draw Request or Rehabilitation Draw Request, as appropriate.

Contractors will be limited to a total of five draws (including final payment) per job. Payment is limited to Work Specifications that have been completed in their entirety and approved.

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a) Draw Thresholds

Contractors may only draw 90% for rehabilitation contracts and 95% for Reconstruction contracts of the invoiced amount for each draw. The remaining 10% for rehabilitation contracts and 5% for Reconstruction contracts will be held by the City as outlined in the Warranty Escrow policy.

b) Final Inspection

Upon completion of the final Work Specifications, the Project Coordinator, Owner, Contractor and Supervisor will inspect the Property and approve the Work prior to issuing any payment.

c) Appropriate Signatures

The Owner, Contractor, Project Coordinator and Supervisor will execute, as appropriate, the Final Inspection Report and Owner Work Acceptance. The City accepts and processes invoices that have been duly signed by the Owner or authorized signatory of the company. The Contractor's final invoice will be attached to the Certificate of Completion and Release.

d) Final Draw – Calculation

It is Staff's responsibility to reconcile the construction account with the invoices presented by the Contractor. Fees resulting from liquidated damages, late completion of a project or additional clearance tests must be paid directly to the City prior to submission of an invoice and not deducted from the final invoice. The final draw is the amount on the approved invoice less the Warranty Escrow. Payment will be forwarded to the Contractor.

5. Final Payment

Final payment will occur in the following manner:

a) Submission of Required Documentation

Prior to payment on final invoices, the City Staff will ensure that all lien waivers, warranty documents, City passed inspection paperwork and Section 3 documents and reports (as appropriate) have been submitted and approved by the Supervisor.

b) Payment Approval Process

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- i. Project Coordinator and the City Building Inspection inspector, as appropriate, has passed the Final Inspection;
- ii. The Owner has approved the completed work;
- iii. Staff has reviewed and reconciled the Contractor's invoice with the Work Specifications; and
- iv. The Supervisor has inspected and approved the Work Specification and approved the invoice amount.

c) **Appropriate Signatures**

The Owner, Contractor, Project Coordinator and Supervisor will execute the Certificate of Completion and Release. The City accepts Contractor documents that have been executed by the Contractor's authorized signatory. The Contractor's final invoice will be attached to the Certificate of Completion and Release.

d) **Calculation**

Fees resulting from late completion of a project or additional clearance tests must be paid directly to the City prior to submission of an invoice and not deducted from the final invoice. The Final payment is the amount on the approved invoice less Warranty Escrow. Payment will be forwarded to the Contractor.

C. **Contractor Payment in the Event of Contractor Default**

In the event of Contractor Default in any of its obligations under the Contract, the balance remaining in the construction fund will be utilized for Completion of the Project.

The initial Contractor will be entitled to payment subject to the following conditions:

1. Approval of the Work Specifications by the Project Coordinator, the Owner and the Supervisor that were completed by the effective default date;
2. Number and amount of Work Specifications, if any, that were not completed by the effective date of the default;
3. Actual cost to complete the incomplete Project; and



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4. Liquidated damages, if any, that the Contractor is required to pay under the Construction Contract.

The initial Contractor will be paid within thirty (30) Calendar Days after the completion of the Project the following: the Work approved by the Owner and Staff, less the actual cost to complete the remaining Work, less liquidated damages, if any, less Warranty Escrow. Note: Fees resulting from late completion of a Project or additional clearance tests must be paid directly to the City prior to submission of an invoice and not deducted from the final invoice.

- D. Payment on Incomplete Work Specification and Construction Contract Requirements after Final Inspection

On completion of the Project, the Project Coordinator will conduct a Final Inspection of the Project to ensure that the completed Work complies with the Construction Contract and related Work Specifications. The Supervisor (Supervisor) will review said inspection report and any other related documents.

1. Incomplete Project

If the Supervisor and Project Coordinator determine that the completed work is not in compliance with the Construction Contract and Work Specification, the Supervisor will notify the Owner and the Contractor of his findings and recommendations.

2. Owner Option

The Owner may choose to:

- a) Accept the complete and incomplete Work; or
- b) Request the Contractor performs such additional Work as necessary to comply with the terms and conditions of the Work Specifications and the Construction Contract, at no additional cost or expense to the Owner.

3. Parameters of Owner Acceptance

If the Contractor chooses not to complete the additional Work and the Owner chooses to accept the partially completed Work Specifications and Construction Contract requirements and complete the remaining incomplete Work Specifications, the Owner may only accept under the following conditions and parameters:

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- a) No Property Standard or City code violations exist per the Final Inspection and other related inspections;
- b) The Contractor will not forfeit warranties on any completed Work Specifications;
- c) The Contractor will provide the appropriate lien wavers on completed Work Specifications;
- d) The Contractor and Owner agree in writing that the Owner will deduct from the related construction the monies required to complete incomplete Work Specifications;
- e) The amount paid to the Contractor is equal to the completed Work Specifications that has passed the Final Inspection and has been agreed to by the Contractor and Owner less the monies necessary to complete the Project, less Warranty Escrow. Note: Fees resulting from late completion of a Project or additional clearance tests must be paid directly to the City prior to submission of an invoice and not deducted from the final invoice.
- f) The Contractor will be paid after the Project is completed and passed the Owner and the City's Inspection.
- g) The Owner will hold the Staff, City employees, agents, council and commissioners harmless from any complete or incomplete Work Specifications.

E. Payment for Contract Termination other than Contractor Default

In the event of termination of the Construction Contract for any reason other than default by the Contractor, the Owner will agree to pay the Contractor for that portion of the Work and Contract requirements completed. Payment to the initial Contractor will occur after completion of the Project by subsequent Contractors.

Both the Contractor and the Owner agree that the Manager's determination will be conclusive.

1. Amount of Compensation

The Compensation due the Contractor is equal to the amount provided on the Contract plus approved change orders, less liquidated damages, less the incomplete Work Specifications, less Warranty Escrow. Note: Fees resulting from late completion of a Project or additional clearance tests

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must be paid directly to the City prior to submission of an invoice and not deducted from the final invoice.

2. Completion of Incomplete Work Specifications and Construction Contract Requirements

The Owner will choose a Contractor from the Vendor List to complete the remaining Work on the Project.

F. Incentive Pay and Liquidated Damages

1. Incentive Pay

The City will pay a Contractor Incentive Pay for completing Qualified Projects before the stipulated contract time has expired. All City inspections must be completed and accepted as final, along with all final acceptances signed, and required paperwork submitted before a Project is determined to be complete. When a Qualified Project is finished before the contract completion date, the City will pay the Contractor \$50.00 each day the job is completed early, with the Incentive Pay total not to exceed \$500.00 per Project. The contract completion date is defined as the date of the original completion stipulated at the Commitment date and on the executed documents signed thereon. Contracts requiring extensions resulting from intentional or unintentional events or actions of the Owner, City or the Contractor, or inclement weather void receipt of the incentive pay.

2. Liquidated Damages

When a Contractor is in Default of the contract completion time, \$100 will be retained as Liquidated Damages for each day in which the Project is not complete. The Project is considered complete when the Owner accepts the Work as final. At that time, the City will collect the Liquidated Damages and the Owner will be responsible for reimbursement (reimbursement being in the form of a forgivable or re-payable loan) of the entire contract costs. Any Liquidated Damages does not change the loan amount for which the Owner is responsible.

Section IX. Contractor Warranties

The Warranty policy ensures that the Owner and Contractor have the same rights afforded non-assisted homeowners who complete rehabilitation work with non-Federal funds.

A. Requirements

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1. Owner Work Acceptance

An executed Owner Work Acceptance signals all parties to the Contract that the Owner agrees that all Work has been satisfactorily completed in accordance to the Contract.

2. Subcontractor and Warranties

The Contractor will ensure that all the warranties contained in the Contract will apply to all Work performed by any Subcontractors.

B. Warranties

1. One Year Warranty

The Contractor warrants for one (1) year that all materials provided to the Owner under the Construction Contract will be new unless otherwise approved in advance by the City and that all Work will be of good quality, free from faults and defects, and in conformance with the Construction Contract, the other Contract Documents, and recognized industry standards.

2. Manufacturer's Warranty

Subject to normal wear and tear, damage, and appropriate Owner maintenance, after the expiration of the one (1) year warranty noted above, all heating, air conditioning, water heater, appliances and other mechanical equipment replaced will be covered as specified by the manufacturers' warranty. Owners are also responsible for contacting the manufacturer for equipment malfunction after the one-year warranty period is over.

3. Owner Alterations and Repairs

Any alterations to or repairs of Work completed with Housing Rehabilitation assistance by the Owner or a third party during the one year warranty period will void the warranty.

4. Service Calls During the Warranty Period

After the completion of the repairs, if the Owner contacts the Vendor for a service call that the Owner feels is directly related to the original repairs and the Vendor findings indicate that the deficiency is unrelated to the initial Work, Owners may dispute the Vendor's findings with the City of Plano. Owners are responsible for payment directly to the Vendor. Complaints will be made in writing and forwarded to the Community

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Services Division of the City of Plano for resolution. The City staff will review the complaint, inspect the property and make a determination on the matter, as outlined below. The City's decision on dispute resolutions is final.

C. Warranty Documents

It is the Contractor's responsibility to provide the Owner all manufacturers' warranty document specifications for all equipment and appliances replaced in the Property. Said documents will be forwarded to the Owner on the date on the Owner Work Acceptance and no later than the closing of the Project.

D. Expressed or Implied Warranties

The warranties noted above are in addition to any rights or warranties expressed or implied by law and in addition to any consumer protection claims arising from misrepresentations by the Contractor. Where a longer warranty than that stated above is specified for individual products, Work, or materials, the longer warranty will govern.

E. Warranty Process

The Warranty Period commences the date the Owner executes the Owner Work Acceptance form. The Owner will contact the Contractor directly for any defective items found after the completion of the Project in the following manner:

1. Owner Contact

The Owner will contact the Contractor for the non-emergency warranty work by providing a written itemized list or a statement of the issues specifically related to the project Work specifications. For emergency incidents, the Owner will contact the Contractor by telephone within 24 hours of the occurrence or upon first knowledge of the occurrence.

2. Contractor Response

The Contractor will respond to the Owner's warranty requests within twenty (20) Calendar Days of the reported incident for non-emergency conditions and within twenty-four (24) hours for emergency conditions. If the Owner receives no response, the Owner may contact the City as outlined herein.

3. Timeframe

The Contractor will make reasonable necessary repairs to the Owner's satisfaction within a reasonable time frame that permits the Contractor the

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opportunity to obtain parts and labor, as appropriate. For emergency incidents, the Contractor will make repairs within 72 hours of the occurrence, subject to availability of materials, weather, or other unforeseen circumstances that prohibit timely repair. If the repairs are not completed in accordance to standard industry practices, the Owner may contact the City and request a warranty dispute resolution.

F. Curing Warranty Claims

Upon notice from the Owner to the Contractor that there is a defect in the Work completed, the Contractor will immediately make such repairs in order to remove the defect, but in no event later than twenty (20) days from said notification.

G. Warranty Disputes

1. Grounds for Submission

An Owner or Contractor may submit a grievance with the City for the following reasons:

- a) Communication breakdown between the Owner and the City, or the Owner and the Contractor,
- b) Alleged failure of the Contractor to honor the one-year warranty, or
- c) Homeowner requesting work unrelated to the project Work specifications.

2. Non-Grievable Areas

Contractual issues unrelated to the Housing Rehabilitation Program may not be brought before the City. For example: specifications outside those Work Specifications that have been approved and agreed to by both the Owner and the Contractor and have entered into contractually may not be brought before the City Staff.

3. Warranty Grievance Form

If the Owner and Contractor are unable to resolve the problem or concern is not settled according to Work Specifications and the requirements of the 12-month warranty, the Owner may complete a Warranty Grievance Form and request the involvement of the Manager or his/her designee.

4. Investigation

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The City will schedule a warranty inspection upon notification from either the Contractor or the Owner to determine if the disputed items are part of the Work Specifications. Both the Owner and Contractor will agree to attend the warranty dispute inspection.

During the warranty inspection, the City, Owner, and Contractor will agree to a reasonable timeframe for completing repairs. The timeframe will be made part of the determination letter. The Project Coordinator will also photograph all warranty related items. The results of the Warranty Inspection and photos will be included in the Owner file and forwarded to the Manager or his/her designee.

At his/her discretion, the Manager or his/her designee may also utilize the following other resources or tools in completing the grievance investigation and framing a determination:

- a) Information in Owner file;
- b) Contractor statement or documents/information provided by Contractor;
- c) Owner statement or documents/ information or provided by Owner;
- d) Contractor liability insurance or homeowner insurance, as appropriate;
- e) HUD field office guidance; and
- f) Other City resources.

**5. Completion of Disputed Warranty Items**

After the completion of the warranty inspection, the City will forward to both the Contractor and the Owner an itemized list of approved warranty items for repair. Both the Owner and the Contractor will agree that the determination made by the City will be conclusive.

The Contractor will complete the repairs agreed upon during the warranty dispute inspection. Within the established timeframe extensions will only be granted through written requests from both the Contractor and the Owner.

**6. Warranty Escrow**

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Should the Contractor fail or refuse to repair the items as determined by the City, the City will utilize the Warranty Escrow to repair the approved disputed warranty items. The Owner must select a Contractor appearing on the City's Vendor List to complete the repairs. Should any unfinished warranty items exceed the Warranty Escrow, the Owner may seek legal remedies available under Texas law.

The use of the Warranty Escrow as part of a warranty dispute resolution does not negate any Contractor requirement under the Construction Contract or any subsequent warranty requests that the Owner may have.

7. Miscellaneous Warranty

From time to time, Housing Rehabilitation Guidelines are revised to conform to existing federal, state and local laws. It is the responsibility of the Owner and Contractor to obtain and review the most current Guidelines prior to filing for and requesting a dispute resolution.

8. Responsibility

a) City

City Staff attempts to reconcile all reasonable disputes in a timely, orderly manner in order to avoid simple disputes from escalating into situations that could detract from the Program. Staff will keep their Supervisor abreast of all Owner and Contractor related warranty issues at all times. Desired notification method is by e-mail for non-emergency related issues and by voice mail and e-mail for emergency related issues.

b) Owner

The Owner responsibilities regarding warranty period compliance includes, but are not limited to:

- i. Honoring the provisions of the Contract with their respective Contractor;
- ii. Following the grievance procedure outlined herein;
- iii. Understanding the scope of Work Specifications performed on the Project;
- iv. Having reasonable expectations of the rehabilitation work completed; and



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- v. Communicating in a manner that encourages a spirit of dispute resolution.

c) Contractor

The Contractors responsibilities regarding warranty period compliance includes, but are not limited to:

- i. Honoring the provisions of the Contract with their respective Owner;
- ii. Following the grievance procedure outlined herein;
- iii. Performing services that meet related industry standards of acceptable practices and workmanship;
- iv. Making an honest attempt at creating happy satisfied Owners;
- v. Addressing problems and concerns in a timely conscientious manner;
- vi. Abiding by the “Golden Rule” – treat Owners the way a Contractor would want to be treated.

Section X. Risk Management during Construction

A. Replacing the Contractor

Events such as Contractor contract cancellation, fraud or default may prevent the completion of the Qualified Project and the terms and conditions of the Construction Contract.

In these circumstances, Owners will select a Contractor from the Vendor List to complete the Project.

B. Cost of Project Completion

In the event of Contractor default or in the case the Contractor has been terminated from completing a Project or has cancelled the Project, the entire Fund, any part thereof, or balance remaining therein may, will be liquidated damages to the Owner and utilized for completion of the Project.