



LOWER MANHATTAN DEVELOPMENT CORPORATION  
STANDARD BUSINESS BACKGROUND QUESTIONNAIRE

ATTACHMENT 1 - SBBQ

**INSTRUCTIONS**

- This Questionnaire shall be completed on behalf of the Firm by an individual who is knowledgeable about the past and present operations of the firm and its policies.
- Firms intending to bid as joint venturers should submit a separate Questionnaire for each joint venturer.
- Whenever more space is needed to answer any question, or you wish to give further explanation, complete by attaching extra pages.
- All questions must be answered. If a particular question does not apply, the response must state "Not Applicable" ("NA").
- Any suits, liens, judgments, litigation, violations, and administrative or court actions under appeal must be disclosed.

**NOTE:** Please indicate whether you believe that any of the information supplied herein is confidential and should be exempt from disclosure under the New York Freedom of Information Law: \_\_\_\_\_yes, \_\_\_\_\_no. If you checked "yes" you must identify the information you feel is confidential by placing an asterisk in front of the appropriate question number(s) and attach an additional sheet(s) explaining the basis for such claim(s).

**DEFINITIONS**

**For purposes of this Questionnaire, the following terms shall have the following meanings:**

- A. "Affiliate" shall mean any person or entity that is directly or indirectly controlled by the person or entity to which the question relates, or any person or entity that directly or indirectly controls such person or entity. For purposes of this definition, control means the power to direct the management of the firm, person or other entity, whether through ownership of shares, the right to designate the Board of Directors, contract or otherwise.
- B. "Principal" shall mean any person who is or has been, within the past five (5) years, either an owner of five percent (5%) or more of the firm's shares, one of the firm's five (5) largest shareholders or a director, officer, partner or proprietor of the Firm.
- C. "Key Person" shall mean any individual, not identified in this Questionnaire as a Principal, who participates in policy making, financial decisions, or the Firm's operations in relation to the LMDC project.

**GENERAL INFORMATION**

1. LEGAL NAME OF FIRM (hereafter, the "Firm") \_\_\_\_\_  
 DBA NAME, IF ANY \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_ PHONE NO. (\_\_\_\_) \_\_\_\_\_  
 CITY \_\_\_\_\_ COUNTY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ FAX NO. (\_\_\_\_) \_\_\_\_\_  
 ACTUAL LOCATION \_\_\_\_\_  
 FIRM HEADQUARTERS (if different) \_\_\_\_\_  
 E-MAIL ADDRESS \_\_\_\_\_ WEB SITE \_\_\_\_\_
2. CONTACT NAME FOR QUESTIONNAIRE \_\_\_\_\_ TITLE \_\_\_\_\_ PHONE NO. \_\_\_\_\_
3. TYPE OF FIRM (check only one) \_\_\_\_\_ CORPORATION \_\_\_\_\_ PARTNERSHIP \_\_\_\_\_ PROPRIETORSHIP \_\_\_\_\_ JOINT VENTURE \_\_\_\_\_ LLC \_\_\_\_\_ LLP
4. HOW MANY YEARS HAS THE FIRM BEEN IN BUSINESS? \_\_\_\_\_ UNDER THE SAME NAME? \_\_\_\_\_ FORMER NAME(S): \_\_\_\_\_
- 4a. WAS THE FIRM PURCHASED AS AN EXISTING BUSINESS BY ITS PRESENT OWNER(S) NO \_\_\_\_\_ YES \_\_\_\_\_ (IF YES PROVIDE INFORMATION)  
 DATE PURCHASED \_\_\_\_/\_\_\_\_/\_\_\_\_ PREVIOUS OWNER(S) NAME(S): \_\_\_\_\_
5. WHAT IS THE FIRM'S BONDING RANGE? \$ \_\_\_\_\_ SINGLE PROJECT \$ \_\_\_\_\_ AGGREGATE (ALL PROJECTS)
6. ARE YOU CERTIFIED MBE \_\_\_\_\_ WBE \_\_\_\_\_ IF SO, BY WHOM? \_\_\_\_\_

**ATTACHMENT 1 - SBBQ**

**OWNERSHIP, MANAGEMENT, AFFILIATION**

7. **Principals:** Identify each person who is, or has been within the past five (5) years, an owner of five percent (5.0%) or more of the Firm's shares, or one of the five (5) largest shareholders or a director, an officer, a partner or a proprietor. Fill in name, % owned, office held and indicate by Y or N whether the individual is a director, officer, partner or Key Person:

FIRST NAME	MI	LAST NAME	DATE OF BIRTH	% OWNED	DIRECTOR (Y OR N)	OFFICER (Y OR N)	TITLE	PARTNER (Y OR N)	KEY PERSON (Y OR N)

8. **Key Persons:** Identify any individual, not listed in your answers to question 7 and identified as a Principal, who participates in policy making, financial decisions or the Firm's operations in relation to the LMDC project:

FIRST NAME	MI	LAST NAME	DATE OF BIRTH	TITLE

9. **Ownership of Other Firms:** Identify any other firms in which, now or in the past five (5) years, the Firm or any Principals or Key Persons, either owned or owns five percent (5.0%) or more of the shares of, or was or is one of the five (5) largest shareholders, a director, officer, partner or proprietor of such other firm:

FEDERAL ID NO.	% OWNED	FIRM/COMPANY NAME	FIRM/COMPANY ADDRESS

**ATTACHMENT 1 - SBBQ**

10. **Affiliates:** Identify any Affiliate not listed in your answers to question 9.

FEDERAL ID NO.	COMPANY NAME	ADDRESS

11. Identify the name and types of any professional or occupational license(s) (e.g., attorney, CPA, architect, engineer, securities, insurance, etc.) ever held by the Firm, Principal or Key Person and provide the information below.

TYPE OF LICENSE	LICENSING AUTHORITY	INDIVIDUAL NAMED ON LICENSE	LICENSE NUMBER	DATE HELD FROM (MO/YR TO MO/YR)

12. Are any persons identified in your answers to questions 7, 8, or 10:

- (a) Present or past employees of the LMDC No. \_\_\_ Yes \_\_\_
- (b) Related by kinship or marriages to any present or past employees of the LMDC? No \_\_\_ Yes \_\_\_

If you answered "yes" to questions 12(a) or 12(b), provide name(s) of such individual(s) and indicate his or her relationship to the current/former LMDC employee.

---



---



---



---

**FINANCIAL INFORMATION**

13. Attach a copy of the Firm's most recent audited annual financial statement, include (if any) the auditor's report and accompanying footnotes.

14. For the purpose of this contract, is any other person or entity guaranteeing the performance of, or otherwise providing financial assistance to, your Firm? If so, describe the form of assistance and list the name(s) and federal tax identification number(s) ("TIN") of each person or entity:

FORM OF ASSISTANCE	INDIVIDUAL	COMPANY NAME	FEDERAL TIN	ADDRESS

**OTHER INFORMATION**

15. For the Firm or any individual, firm or Affiliate identified in questions 7 through 10 above; (a) list and describe all judgments, liens or claims over \$25,000 filed against the Firm, individual, firm or Affiliate and remaining undischarged or unsatisfied for more than ninety (90) days; and (b) list and describe all liquidated damages assessed. Also list any litigation currently pending against the Firm, individual, firm, or Affiliate, if the judgment sought relates to the type of work to be performed for the LMDC, or could have a material adverse financial impact on the Firm, individual, firm or Affiliate.

INDIVIDUAL, FIRM OR AFFILIATE	LIENS, CLAIMS, LITIGATION INDEX/DOCKET NO.	LIQUIDATED DAMAGES

# ATTACHMENT 1 - SBBQ

16. Within the past five (5) years has the Firm, Principal, Key Person, or Affiliate been the subject of any of the following (respond to each question and describe in detail the circumstances of each affirmative answer; attach additional pages if necessary):

- |  |  |
|--|--|
| (a) a judgment of conviction for any business-related conduct constituting a crime under state or Federal law?   | No _____ Yes _____   |
| (b) a criminal investigation or indictment for any business-related conduct constituting a crime under state or Federal law?   | No _____ Yes _____   |
| (c) a grant of immunity for any business-related conduct constituting a crime under state or Federal law?  | No _____ Yes _____   |
| (d) any felony or misdemeanor charges pending that were filed either before or during their employment or affiliation with the Firm?   | No _____ Yes _____   |
| (e) a Federal or state suspension or debarment?  | No _____ Yes _____   |
| (f) a finding of non-responsibility by any government agency?  | No _____ Yes _____   |
| (g) a denial or revocation of prequalification?  | No _____ Yes _____   |
| (h) a voluntary exclusion from bidding/contracting agreement?  | No _____ Yes _____   |
| (i) any administrative or civil action seeking specific performance or restitution on any public works contract except any disputed work proceeding?   | No _____ Yes _____   |
| (j) an OSHA Citation and Notification of Penalty containing a violation classified as serious?   | No _____ Yes _____   |
| (k) an OSHA Citation and Notification of Penalty containing a violation classified as willful?   | No _____ Yes _____   |
| (l) a prevailing wage or supplement payment violation?   | No _____ Yes _____   |
| (m) a state labor law violation deemed willful?  | No _____ Yes _____   |
| (n) any other federal or state citations, notices, violation orders, pending administrative hearings or proceedings or determinations of a violation of any labor law or regulation?   | No _____ Yes _____   |
| (o) any criminal investigation, felony indictment or conviction concerning formation of, or any business association with, any allegedly false or fraudulent women's, minority or disadvantaged business enterprise?   | No _____ Yes _____   |
| (p) any denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?  | No _____ Yes _____   |
| (q) rejection of a low bid on a local, state or federal contract for failure to meet statutory affirmative action or M/WBE requirements?   | No _____ Yes _____   |
| (r) consent order with the NYS Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal or state environmental laws?   | No _____ Yes _____   |
| (s) any citations, notices, violation orders, pending administrative hearings or proceedings or determinations for violations of: <ul style="list-style-type: none"> <li>• Federal, state or local health laws, rules or regulations?</li> <li>• Federal, state or local environmental laws, rules or regulations?</li> <li>• unemployment insurance or workers compensation coverage or claim requirements?</li> <li>• ERISA (Employee Retirement Income Security Act)?</li> <li>• Federal, state or local human rights laws?</li> <li>• Federal or state security laws?</li> <li>• a request to withdraw a bid submitted to a public owner or any claim of an error on a bid submitted to a public owner?</li> </ul> | No _____ Yes _____<br>No _____ Yes _____ |
| (t) any bankruptcy or reorganization proceeding?   | No _____ Yes _____   |
| (u) any suspension or revocation of any business or professional license, certificates or certifications?  | No _____ Yes _____   |
| (v) a denial of application an for a professional or trade license?  | No _____ Yes _____   |

17. Within the past five (5) years has the Firm, Principal, or Key Person (respond to each question and detail the circumstances of each affirmative answer; attach additional pages if necessary):

- (a) filed or submitted to any government agency, employee or representative any document that the Firm, Affiliate, Principal or Key Person knew to contain a false statement or false information? No \_\_\_ Yes \_\_\_
  - (b) falsified any business record? No \_\_\_ Yes \_\_\_
  - (c) given or offered to give money or any thing of value or any benefit to any labor official or public servant with intent to influence that person with respect to his or her official acts, duties or decisions as a labor official or public servant? No \_\_\_ Yes \_\_\_
  - (d) given or offered to give money or any thing of value or any benefit to any official or employee of a business with intent to induce that person or employee to engage in unethical or illegal business practices? No \_\_\_ Yes \_\_\_
  - (e) agreed with any person to submit a proposal, price or bid below prevailing market rate? No \_\_\_ Yes \_\_\_
  - (f) been sued or paid a settlement of claim related to the performance of professional services? No \_\_\_ Yes \_\_\_
18. Within the past five (5) years, has the Firm ever:
- (a) failed to file any required tax returns or failed to pay any applicable Federal, state or New York City taxes, or other assessed New York City charges including, but not limited to, water and sewer charges? No \_\_\_ Yes \_\_\_
  - (b) had, or does it presently have, any delinquent Federal, state or New York City taxes outstanding? No \_\_\_ Yes \_\_\_

If you answered "yes" to questions 18(a) or 18(b), supply details.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. Provide any supplemental information the Firm desires to have considered as part of its response to this Questionnaire.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION**

The undersigned recognizes that this Questionnaire is submitted for the express purpose of inducing the LMDC to award a contract or approve a subcontract; acknowledges that the LMDC may in its discretion, by means which it may choose, determine the truth and accuracy of all statements made herein; authorizes the LMDC, the United States Department of Housing and Urban Development, or their agents to contact any entity named in this Questionnaire and any attachments for the purposes of verifying the information supplied; acknowledges that the intentional submission of false or misleading information may constitute a felony under New York Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 U.S.C. Section 1001; and represents that the information submitted in this Questionnaire and any attached pages is true, accurate and complete.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature of Officer

\_\_\_\_\_  
Commission Expiration Date Title

# ATTACHMENT 2 - WORKFORCE UTILIZATION

## Exhibit A-8: Workforce Utilization Report Employees Impacted by September 11, 2001

Type of Report (Check One) / / Total Workforce / / Contract Specific Workforce  
 Type of Service (Check One) / / Professional, Construction, Consultant / / Service/ Consultant / / Commodities  
 Contractor Name: \_\_\_\_\_ Contractor Start Date: \_\_\_\_\_  
 Address: \_\_\_\_\_ Reporting Period: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_ / / Quarterly Report / / Semi-Annual Report  
 Federal ID NO: \_\_\_\_\_ Project Name: \_\_\_\_\_  
 Check One: / / Prime Contractor / / Subcontractor Project Location: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Contract Number: \_\_\_\_\_ County: \_\_\_\_\_  
 Contract Amount: \_\_\_\_\_ Product/Services Provided: \_\_\_\_\_

Federal Occupational Category	Number of Employees							Moderate-Income Existing and New Employees that Live Below Houston Street
	Total Number of Existing Employees Working on this Project	Total Number of New Employees Hired for this Project	Existing Employees that Lost Job or Wages as a Result of September 11, 2001	New Employees that Lost Job or Wages as a Result of September 11th, 2001	Low-Income Existing and New Employees that Lost Job or Wages as a Result of September 11th, 2001	Moderate-Income Existing and New Employees that Lost Job or Wages as a Result of September 11th, 2001	Low-Income Existing and New employees that live below Houston Street	
Official/Administrator								
Professionals								
Technicians								
Sales Workers								
Office & Clerical								
Craft Workers								
Operatives								
Laborers								
Service Workers								
<b>TOTALS</b>								

Certification: I, \_\_\_\_\_ (Print Name) the \_\_\_\_\_ (Title)  
 do certify that (i) I have read this Workforce Utilization Report on Employees Impacted by September 11, 2001 and (ii) to the best of my knowledge, information, and belief the information herein is complete and accurate.  
 Signature: \_\_\_\_\_

ATTACHMENT 2 - WORKFORCE UTILIZATION

Exhibit A-7: Workforce Utilization Report for Section 3 Clause

Type of Report (Check One) / / Total Workforce / / Contract Specific Workforce  
 Type of Service (Check One) / / Professional, Construction, Consultant / / Service/ Consultant / / Commodities  
 Contractor Name: Contractor Start Date:  
 Address: Reporting Period:  
 / / Quarterly Report / / Semi-Annual Report  
 Telephone Number Project Name:  
 Federal ID NO: Project Location:  
 Check One: / / Prime Contractor / / Subcontractor County: Zip:  
 Contract Number: Product/Services Provided:  
 Contract Amount:

Federal Occupational Category	Number of Employees						Very Low Income Employees Participating in Other HUD Programs
	Total Number of Employees Working on this Project	Low Income Employees Residing in Metropolitan Area	Very Low Income Employees Residing in Metropolitan Area	Low Income Employees Residing in Service Area or Neighborhood in which Project is Located	Very Low Income Employees Residing in Service Area or Neighborhood in which Project is Located	Low Income Employees Participating in Other HUD Programs	
Official/Administrator							
Professionals							
Technicians							
Sales Workers							
Office & Clerical							
Craft Workers							
Operatives							
Laborers							
Service Workers							
<b>TOTALS</b>							

Certification: I, \_\_\_\_\_ (Print Name) the, \_\_\_\_\_ (Title)  
 do certify that (i) I have read this Workforce Utilization Report on Section 3 Clause and (ii) to the best of my knowledge, information, and belief the information herein is complete and accurate.  
 Signature: \_\_\_\_\_

**Schedule C, Attachment C-1**

LMDC Construction Contract

**MONTHLY EMPLOYMENT UTILIZATION REPORT**

(See reverse side for instructions)

<p>COMPANY NAME: _____</p> <p>ADDRESS: _____</p> <p>TELEPHONE NUMBER: _____</p> <p>FEDERAL ID NO.: _____</p> <p>CHECK IF NOT-FOR-PROJECT: _____</p>	<p>PROJECT NAME: _____</p> <p>PROJECT LOCATION: _____</p> <p>COUNTY: _____ ZIP: _____</p> <p>REPORTING PERIOD: _____ Month _____ Year</p> <p>CONTRACT NO.: _____</p> <p>CONTRACT AMOUNT: _____ \$</p>	<p>CONTRACTOR START DATE: _____</p> <p>ESTIMATED COMPLETION DATE: _____</p> <p>PERCENT OF JOB COMPLETED (for reporting period): _____</p>	<p><b>COMPANY EMPLOYMENT DATA</b></p>
			<p><b>C. NET INCREASE</b> (applies only to changes, if any, in Company's Employee makeup at the end of project)</p>
			<p><b>TOTAL MALE</b></p>
			<p><b>TOTAL FEMALE</b></p>
			<p><b>TOTAL COMPANY EMPLOYEES</b> (at the end of project)</p>
			<p><b>TOTAL COMPANY EMPLOYEES</b> (at the beginning of project)</p>
			<p><b>C1 EMPLOYEES</b></p>
			<p><b>C2 OCCUPATIONAL CODES/ # OF EMPLOYEES</b></p>
			<p><b>C3 EMPLOYEES</b></p>

CLASSIFICATION	1. WORKER HOURS OF EMPLOYMENT										2. NUMBER OF WORKERS				3. CONSTRUCTION TRADES	
	1a. ALL WORKER HOURS		1b. BLACK (Not of Hispanic Origin)		1c. HISPANIC		1d. ASIAN or PACIFIC ISLANDER		1e. NATIVE AMERICAN/ ALASKAN/NATIVE		2a. ALL		2b. MINORITY			
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE		
Supervisory																
Journey Worker																
Apprentice																
Trainee																
Subtotal																
Journey Worker																
Apprentice																
Trainee																
Subtotal																
Journey Worker																
Apprentice																
Trainee																
Subtotal																
TOTAL SUPERVISORS																
TOTAL JOURNEY WORKERS																
TOTAL APPRENTICES																



**MONTHLY EMPLOYMENT UTILIZATION REPORT**  
**ATTACHMENT 3 - MWBE WORKFORCE COMPLIANCE**

The Monthly Employment Utilization Report ("MEUR") is to be completed by each subject contractor (both Prime and Sub) and signed by a responsible official of the company. The reports are to be filed by the 5th day of each month during the term of the project, and they shall include the total work-hours for each employee classification in each trade in the covered area for the monthly reporting period. The prime contractor is responsible for submitting its subcontractors report, along with its own. Additional copies of this form may be obtained from Lower Manhattan Development Corp. ("LMDC").

Minority: Includes Blacks, Hispanics, Native Americans, Alaskan Natives, and Asian and Pacific Islanders, both men and women.

1. Worker Hours of Employment (a-e):
  - a) All Worker Hours: The total number of male hours, the total number of female hours, and the total of both male and female hours worked under each classification.
  - b) through e) Minority Worker Hours The total number of male hours and the total number of female hours worked by each specified group of minority worker in each classification.
  
2. Number of Workers (a-b):
  - a) All Workers Total number of males and total number of females working in each classification of each trade in the contractor's aggregate workforce during reporting period.
  - b) Minority Workers Total number of male minorities and total number of female minorities working in each classification, in each trade in the contractor's aggregate workforce during reporting period.
  
3. Construction Trade: Only those construction crafts which contractor employs in the covered area.  
*Construction Trades include:* Field Office Staff (Professionals and Office/Clerical), Laborers, Equipment Operators, Surveyors, Truck Drivers, Iron Workers, Carpenters, Cement Masons, Painters, Electricians, Plumbers and Other.

Note: LMDC may demand payroll records to substantiate work hours listed on the Monthly Employment Utilization Report, if discrepancies should arise.

OCCUPATIONAL CODES

Officials/Administrators	100	
Professionals	110	
Technicians	120	
Sales Workers	130	
Office & Clerical	140	
Craft Workers	150	
Operatives	160	
Laborers		170
Service Workers		180

**FORWARD TO THE RESPONSIBLE LMDC PROJECT MANAGER**

Lower Manhattan Development Corp.  
One Liberty Plaza, 20<sup>th</sup> Floor  
New York, NY 10006  
P (212) 962-2300  
F (212) 962-2431

**SCHEDULE C, Attachment C-2**

**MBE/WBE COMPLIANCE REPORT**

**CONSTRUCTION**  
(to be filed monthly)

PROJECT SPONSOR/DEVELOPER: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_  
 CONTACT PERSON: \_\_\_\_\_

LMDC AA REPRESENTATIVE: **BEVERLY BOGGS**  
 PROJECT NAME: \_\_\_\_\_  
 PROJECT START DATE: \_\_\_\_\_ PERCENT COMPLETE: \_\_\_\_\_  
 ACTUAL COMPLETION: \_\_\_\_\_ REPORTING PERIOD: \_\_\_\_\_

**Attach M/WBE contract documentation, i.e. executed contracts, signed purchase orders or canceled checks. This report should be completed by an officer of the reporting company, and forwarded to the LMDC AA Representative with the appropriate documentation.**

**ATTACHMENT 3 - MWBE WORKFORCE COMPLIANCE**

PRIME CONTRACTOR (Name, Address, Contact Person and Phone)	TYPE OF CONTRACT (Trade/Service)	CONTRACT AMOUNT	SUB CONTRACTOR NO. & AMT.	MBE/WBE SUBCONTRACTOR (Name, Address, Contact Person and Phone)	SCOPE OF SERVICES	AMOUNT CONTRACTED BY MBE/WBE

**CERTIFICATION:** I, \_\_\_\_\_ (Print Name), the \_\_\_\_\_ (Title), do certify that (I) have read this Compliance Report and (II) to the best of my knowledge, information and belief the information contained herein is complete and accurate.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**FORWARD TO THE RESPONSIBLE LMDC PROJECT MANAGER**

Lower Manhattan Development Corp.  
 One Liberty Plaza, 20<sup>th</sup> Floor P (212) 962-2300  
 New York, NY 10006 F (212) 962-2431

# ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

## SCHEDULE A

### *HUD / LMDC COMPLIANCE REQUIREMENTS*

#### I. GENERAL CONDITIONS

##### A. General Compliance

Consultant agrees to comply with the requirements of the HUD regulations concerning CDBG, 24 CFR Part 570, as modified by the waivers and alternative requirements applicable to LMDC and its subrecipients that are published at 67 FR 12042 and 67 FR 36017. Consultant also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. Consultant further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

##### B. Workers' Compensation

Consultant shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

##### C. Insurance and Bonding

Consultant shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Society.

Consultant shall comply with the bonding and insurance requirements of 24 CFR §§ Part 84.31 and 84.48, including but not limited to the following insurance to the extent stated:

1. Commercial General Liability Insurance providing both bodily injury (including death) and property damage insurance in a limit not less than Two Million Dollars (\$2,000,000) aggregate and One Million Dollars (\$1,000,000) per occurrence. Such insurance is to be written on an occurrence basis. The Society and LMDC shall be named as additional insureds.

2. Automobile Liability and Property Damage Insurance, if applicable, in an amount not less than \$1,000,000 combined single limit for both bodily injury and property damage.

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

3. Workers' Compensation coverage for employers liability and disability benefits as required by the State of New York.
4. Excess Liability Insurance in an amount not less than \$10,000,000.
5. Certificates of Insurance for all of the aforementioned coverages shall be provided to the Society prior to the commencement of work under this Agreement. The Society and LMDC shall be named as additional insureds on each such certificate.

### II. ADMINISTRATIVE REQUIREMENTS

#### A. Financial Management

##### 1. Accounting Standards

Consultant agrees to comply with 24 CFR §§ 84.21-84.28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

##### 2. Cost Principles

Consultant shall administer the Program in conformance with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," A-122 "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

#### B. Documentation and Record-Keeping

##### 1. Records to be Maintained

Consultant shall maintain all records required by the HUD regulations specified in 24 CFR § 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR §§ 85.20 and 570.502; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570 (24 CFR §§ 570.600-570.614).

### 2. Retention

Consultant shall retain all records pertinent to expenditures incurred under this Agreement for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment or for a reasonable period of time as requested by the Society. Notwithstanding the above, if there is a litigation, claim, audit, negotiation or other action that involves any of the records cited and that has started before the expiration of the four-year period, such records must be retained until completion of the action and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

Consultant shall index the records that must be maintained and retained in this subparagraph B. At the end of the four-year period following the completion or termination of all activities funded under this Agreement, or on earlier request by LMDC, Consultant shall produce to LMDC the index and all records maintained in accordance with this subparagraph B.

### 3. Disclosure

Consultant understands that personal client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Society's or Consultant's responsibilities with respect to services provided under this Agreement, is prohibited by the Privacy Act, 5 U.S.C. § 552a, unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

### 4. Property Records

Consultant shall maintain real property inventory records that clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the “changes in use” restrictions specified in 24 CFR § 570.503(b)(8), where applicable.

### 5. Audits and Inspections

All Consultant records with respect to any matters covered by this Agreement shall be made available to the Society, LMDC, HUD, their designees or the Federal Government, at any time during normal business hours, as often as LMDC or HUD deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Consultant within 30 days after receipt by Consultant. Failure of Consultant to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Consultant hereby agrees to have an annual agency audit conducted in accordance with current LMDC policy concerning subrecipient audits and OMB Circular A-133.

## C. Procurement

### 1. Compliance

Consultant shall comply with current LMDC policies concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policies as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to LMDC upon termination or completion of this Agreement.

### 2. OMB Standards

Consultant shall procure all materials, property, or services in accordance with the requirements of 24 CFR § 85.36, and shall subsequently follow 24 CFR Part 85 as modified by 24 CFR § 570.502, covering utilization and disposal of property.

### 3. Travel

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

Consultant shall obtain written approval from the Society for any travel outside the New York City metropolitan area with funds provided under this Agreement.

### III. PERSONNEL AND PARTICIPANT CONDITIONS

#### A. Civil Rights

##### 1. Compliance

Consultant agrees to comply with all applicable civil rights laws, rules, and ordinances of the City of New York and the State of New York and with Title VI of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

##### 2. Nondiscrimination

Consultant will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. Consultant will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

##### 3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and 24 CFR §§ 670.601 and 670.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, Consultant shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that LMDC and the United States are

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

beneficiaries of and entitled to enforce such covenants. Consultant, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

### 4. Section 504

Consultant agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which prohibits discrimination against the handicapped in any Federally assisted program. The Society shall provide Consultant with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

### B. Affirmative Action

#### 1. Compliance with E.O. 11246

Consultant agrees that it shall be committed to carry out, pursuant to LMDC's specifications, an Affirmative Action Program to provide equal opportunity in employment in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966.

#### 2. M/WBE

Consultant will use its best efforts to afford small and minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and woman-owned business enterprise" ("M/WBE") means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, 'minority group members' are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Consultant may rely on written representations by businesses regarding their status as minority and woman-owned female business enterprises in lieu of an independent investigation.

Consultant shall comply with and cause each of its subcontractors to comply with the provisions of Schedule C of the Society's subrecipient agreement with LMDC relating to non-discrimination and affirmative action, incorporated herein by reference. Consultant shall make best efforts to comply with the provisions of Schedule C relating to affirmative action.

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

### 3. Access to Records

Consultant shall furnish and cause each of its subcontractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Society, LMDC, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

### 4. Notifications

Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Consultant, advising the labor union or worker's representative of Consultant's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

### 5. EEO/AA Statement

Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that it is an Equal Opportunity or Affirmative Action employer.

### 6. Subcontract Provisions

Consultant will include the provisions of Sections III.A (Civil Rights) and III.B (Affirmative Action) in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its subcontractors.

## C. Employment Restrictions

### 1. Prohibited Activity

Consultant is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying; political patronage; and nepotism activities.

### 2. Labor Standards

Consultant agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. § 327 et seq.) and all

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Consultant shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Society for review upon request.

Consultant agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by HUD pertaining to such contracts and with applicable requirements of the regulations of the United States Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve Consultant of its obligation, if any, to require payment of the higher wage. In all such contracts subject to such regulations, Consultant shall cause or require to be inserted in full provisions meeting the requirements of this paragraph.

### 3. "Section 3" Clause

#### a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR Part 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the Society, Consultant and any of Consultant's subcontractors. Failure to fulfill these requirements shall subject the Society, Consultant and any of Consultant's subcontractors, their successors and assigns, to those sanctions specified by this Agreement. Consultant certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

Consultant further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701).

Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.

Consultant certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications. Consultant agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts. Consultant will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. Consultant will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

### D. Conduct

#### 1. Subcontracts

a. Monitoring. Consultant will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

b. Content. Consultant shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

c. Selection Process. Consultant shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be given to the Society along with documentation concerning the selection process.

### 2. Hatch Act

Consultant agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

### 3. Conflict of Interest

Consultant agrees to abide by the provisions of 24 CFR § 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Consultant further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by Consultant hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of Consultant, or of any designated public agencies or subrecipients that are receiving funds from HUD under the CDBG program.

### 4. Lobbying

Consultant hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the certification language of this subparagraph 5 be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly:

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### 5. Copyright

If this Agreement results in any copyrightable material or inventions, LMDC and/or HUD reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

### 6. Religious Organization

Consultant agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR §570.200(j).

## IV. ENVIRONMENTAL CONDITIONS

## ATTACHMENT 4 - HUD/LMDC COMPLIANCE REQUIREMENTS

Consultant agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

1. Clean Air Act, 42 U.S.C. § 7401, *et seq.*;
2. Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
3. Environmental Protection Agency (“EPA”) regulations pursuant to 40 CFR Part 50, as amended.

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2)** The classification is utilized in the area by the construction industry; and
- (3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where

appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part

of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;

**(2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll

period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the

journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration.... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subpara-

graph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

**(3)** The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.





**DIRECTIONS: Please execute two originals (both with original signature).  
Please forward directly to the agency (not M.O.C.S.).**

CERTIFICATION OF NO CHANGE

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS CERTIFICATION, AND/OR THE FAILURE TO CONDUCT APPROPRIATE DUE DILIGENCE IN VERIFYING THE INFORMATION THAT IS THE SUBJECT MATTER OF THIS CERTIFICATION, MAY RESULT IN RENDERING THE SUBMITTING ENTITY NON-RESPONSIBLE FOR THE PURPOSE OF CONTRACT AWARD, AND A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS CERTIFICATION MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

<b>Submitting entity</b> _____ <b>Are you submitting this Certification as a parent?</b> <input type="checkbox"/> Yes   / <input type="checkbox"/> No <b>EIN/TIN</b> _____ <b>Address</b> _____ <b>Agency</b> _____
---

I, \_\_\_\_\_, being duly sworn, state that I have read and understand all the items contained in the \_\_\_\_\_ questionnaire, dated \_\_\_\_\_ [if applicable: and the submission(s) dated \_\_\_\_\_, updating the information in that questionnaire]; and that, to the best of my knowledge, information and belief, the answers contained in the \_\_\_\_\_ questionnaire [if applicable: as modified by the submission(s) dated \_\_\_\_\_,] are full, complete, and accurate; and that, to the best of my knowledge, information, and belief, those answers continue to be full, complete, and accurate. I further certify on behalf of the **submitting vendor** that the information contained in the **principal questionnaires** for \_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_, dated \_\_\_\_\_, [if applicable: and the submission(s) dated \_\_\_\_\_, updating the information in those questionnaires] has been verified and continues to the best of my knowledge to be full, complete and accurate. I understand that the City of New York will rely on the information supplied in this certification as additional inducement to enter into a contract with the submitting entity.

Sworn to before me this _____ day of _____ 20____		
_____ Notary Public	_____ County License Issued	_____ License Number
BY _____ Print name		
_____ Title		
_____ Signature	_____ Date	
ON BEHALF OF _____ Name of submitting entity		

ATTACHMENT 8 - DLS - CONSTRUCTION EMPLOYMENT REPORT -  
DEPARTMENT OF SMALL BUSINESS SERVICES  
DIVISION OF LABOR SERVICES  
INSTRUCTIONS FOR COMPLETING  
CONSTRUCTION EMPLOYMENT REPORT

I. WHO MUST FILE AN EMPLOYMENT REPORT

An Employment Report (ER) must be filed if you are:

Applicant, General contractor, Construction Manager, Developer

1. an applicant benefiting from the Industrial and Commercial Incentive Program (ICIP) with a construction contract value of \$1,000,000 or more; or
2. a general contractor or construction manager selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of \$1,000,000 or more; or
3. a general contractor selected to perform work on a construction project funded (in whole or in part) by the federal government with a proposed contract value of \$10,000 or more; and
4. a general contractor or construction manager selected to perform work on a construction project benefiting from the Industrial and Commercial Incentive Program (ICIP) with a contract value of \$750,000 or more.

Subcontractor, Supplier or Service Provider

1. a subcontractor selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of \$750,000 or more; or
2. a subcontractor selected to perform work on a construction project funded (in whole or in part) by the federal government with a proposed contract value of \$10,000 or more; or
3. a subcontractor selected to perform work on a construction project benefiting from the Industrial and Commercial Incentive Program (ICIP) with a contract value of \$750,000 or more.
4. a supplier or service provider performing work on a construction project funded or assisted by the City of New York with a proposed contract value of \$50,000 or more.

II. WHO MUST FILE A "LESS THAN \$750,000 SUBCONTRACTOR CERTIFICATE"

1. If your organization negotiates a subcontract (first and second tier) on this project and the subcontract value is less than \$750,000, you need to complete the "Less Than \$750,000 Subcontractor Certificate" for each subcontract below that amount.

III. WHERE TO FILE

1. If you are a contractor or subcontractor on a City funded construction project, the ER must be filed with the contracting agency which will award the contract to the prime contractor.
2. If you are a contractor or subcontractor who will be working for a private developer in receipt of funding or assistance from the City, the ER must be filed with the City agency with jurisdiction over the developer's project.
3. If you are a contractor or subcontractor who will be working for an applicant pursuant to the Industrial and Commercial Development Incentive Program, the ER must be filed with:

**Department of Business Services/  
Division of Labor Services  
110 William Street, 7 Floor  
New York, NY 10038  
Attention: Helen Wilson**

4. If you are a contractor or subcontractor on a federal government funded construction project, the Employment Report must be filed with the City contracting agency which will award the contract.

IV. WHO REVIEWS THE EMPLOYMENT REPORT

The contracting agency and/or DLS review the ER for completeness. If any portion is incomplete, you will be notified.

Upon receipt of a completed ER, it is reviewed by DLS to ensure that your firm or organization is in compliance with the City's equal employment opportunity requirements.

V. THE DIVISION OF LABOR SERVICES' REVIEW PROCESS

In accordance with E.O. 50, upon receipt by DLS of a completed ER, DLS conducts a review of the contractor's current employment policies, practices and procedures, as well as perform a statistical analysis of the contractor's workforce, if necessary. The process is as follows:

1. Within five (5) business days, DLS will review the ER for completeness and accuracy. If any information is omitted or incorrect, or if necessary documents are not submitted, the submission shall be deemed incomplete and DLS will inform the contractor. The substantive compliance review does not commence until the submission is complete. **An incomplete submission will delay the review process and may preclude or interrupt the contract approval.**

**ATTACHMENT 8 - DLS - CONSTRUCTION EMPLOYMENT REPORT -  
PAGE THREE**

2. If the ER submission is complete, the compliance review will proceed, resulting in one of the following:
  - a) A **Conditional Certificate of Compliance**, valid for 1 month;
  - b) **Certificate of Approval**, valid for 12 months;
  - c) **Continued Approval Certificate**, good for the applicable contract if a Certificate of Approval has been issued; or
  - d) A **Compliance Review Analysis** Report. If the analysis yields a finding of underutilization of minorities and/or women resulting from policies or procedures that may have a discriminatory effect, or other employment policies or practices mitigating against equal employment opportunity, the contractor will be asked to attend a conference to present a legal and/or factual explanation, or to develop an Employment Program.

**Any firm or organization making good faith efforts to take necessary corrective actions to change policies found to have a disparate effect on women and minorities may be issued a Conditional Certificate of Compliance.**

**VI. WHO MUST SIGN THE EMPLOYMENT REPORT**

The signatory of this and all other documents submitted to DLS must be an official of the firm, authorized to enter into binding legal agreements.

**NOTE: DLS WILL ONLY ACCEPT ORIGINAL SIGNATURES COPIES WILL BE REJECTED**

**VII. HOW TO COMPLETE THE EMPLOYMENT REPORT**

**A. General Information**

1. Check the appropriate contractual relationship (contractor or subcontractor) you will have with the City as a result of this contract. If you are a subcontractor, you must state the name of the contractor for whom you are providing the construction services.
2. You must provide your Employer Identification or Federal Tax Number.
3. You must indicate the number of employees. (This number should include the number of current workers for all work performed in New York City.)

ATTACHMENT 8 - DLS - CONSTRUCTION EMPLOYMENT REPORT -  
PAGE FOUR

4. You must check the entry corresponding with the description of your firm's ownership.
5. Identify your firm's industry code (see Appendix A)

**NOTE: READ BEFORE COMPLETING B. PART I**

**1. Companies With Prior DLS Approval**

You have a valid Certificate of Approval issued by DLS within the past 12 months for the company performing on this contract.

**2. You Have Prior Approval From OFCCP**

The facility(ies) involved in the performance of this contract has within the past 24 months undergone an audit and received approval by the U.S. Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") and is in compliance with all other requirements of E.O. 50 and its implementing Rules.

**B. PART I - CONTRACTOR/SUBCONTRACTOR INFORMATION**

1. State the name of your company.
2. State the full address of the company's principal place of business and/or NYC Office.
3. Identify the Chief Operating Officer of the company. Please provide a telephone number.
4. Please provide the name and business telephone of designated Equal Opportunity Compliance Officer.
5. State the name of the prime contractor and contact person, if it is not your company.
6. State the following information, respectively:
  - (a) the NYC contracting agency with which your company (or the prime contractor) has the construction contract;
  - (b) identify the (sub)contract value;
  - (c) identify the Project Developer (applicable to Industrial Commercial Incentive Program (ICIP) contracts only);
  - (d) state the project/contract number which applies to the overall contract (applicable to federal and City-funded contracts only);
  - (e) state the lot and block number for the project (applicable to ICIP contracts only);
  - (f) state the projected commencement date for your company's participation on this project; and

**PAGE FIVE**

- (g) state the projected completion date for your company's participation on this project.
- 7. Provide a trade description of the work you will perform on this project and address where the work will be performed.

**NOTE: SUBCONTRACTORS - THIS INFORMATION CAN BE OBTAINED FROM THE CONTRACT YOU HAVE WITH THE PRIME CONTRACTOR.**

- 8a. This question refers to whether your company's particular facility locations that have been reviewed and/or certified by DLS within the past 12 months.
- 8b. If all of the facilities are involved in this proposed contract then you may complete and submit only Parts I and IV of the Employment Report for each operating facility. Be certain to identify the date on which you submitted DLS completed Employment Report, the name of the City contracting agency with which the contract was made, and the name and telephone number of the person to whom the Employment Report was submitted.
- 9. Was an approval issued in the last 24 months pursuant to an OFCCP Audit of the facility for which this Employment Report is being submitted? When answering this question, be careful to consider only those locations which the OFCCP actually audited. DLS will not consider OFCCP approvals and certifications for facility locations which were not audited.
  - (a) Identify the reviewing OFCCP office by its name and address;
  - (b) Was an unconditional certificate of compliance issued within the past 24 months by the OFCCP. If yes, attach a copy of the certificate in lieu of completing Employment Report Parts II and III; and if applicable, provide a copy of all stated OFCCP findings. Include copies of all corrective actions and documentation of OFCCP's performance.
- 10. Please provide a copy of any Collective Bargaining Agreement(s) which is negotiated through an employer trade association on behalf of your organization or any of its affiliates.

**C. PART II - EMPLOYMENT POLICIES AND PRACTICES**

**REMEMBER TO LABEL ALL DOCUMENTS WITH THE QUESTION NUMBER FOR WHICH THEY ARE SUBMITTED**

PAGE SIX

Questions

11a. - j. You must respond to the questions as to whether or not your firm has documents reflecting written policies, benefits and procedures. If so, then you must identify by name each document in which the policy(ies), procedure(s) and benefit(s) is located and submit copies of all of the document(s).

If your firm follows unwritten practices or procedures, then you must explain in writing how they operate.

Questions

12a. and b. There are two parts to this question. Part (a) concerns the manner/ methods by which you comply with the requirements of the Immigration Reform and Control Act of 1986 (IRCA).

Part (b) inquires into where and how I-9 forms are maintained and stored.

Questions

13a. and b. Part (a) requirement that an applicant or employee be subjected to a medical examination at any given time.

Part (b) submission of medical information questionnaires used by the company.

Questions

14a and b For part (a) indicate the existence and location of all statements of your firm's Equal Employment Opportunity policy and to attach a copy of each statement.

For part (b) submit your current Affirmative Action Plan(s).

Questions

15a and b If your firm or collective bargaining agreement has an internal grievance procedure, for (a), indicate this and submit a copy of the policy and procedure.

If unwritten, for (b), explain its nature and operation. Explain how your firm's procedure addresses EEO complaints.

**ATTACHMENT 8 - DLS - CONSTRUCTION EMPLOYMENT REPORT -  
PAGE SEVEN**

Question

16. If your employees have used the procedure in the last three (3) years, please submit an explanation in the format indicated below:

<b>NUMBER COMPLAINT(s)</b>	<b>NATURE OF THE COMPLAINT(s)</b>	<b>POSITION(s) OF COMPLAINANT(s)</b>	<b>INVESTIGATION CONDUCTED YES/NO</b>	<b>CURRENT STATUS DISPOSITION</b>
--------------------------------	---------------------------------------	--	---	---------------------------------------

Question

17. Indicate whether in the past three (3) years complaints have been filed with a court of law or administrative agency, naming your company as a defendant (or respondent) in a complaint alleging violation of any anti-discrimination or affirmative action laws. If yes, develop and submit a log to show, for each administrative/and or judicial action filed, the following information:

<b>NAMES(s) OF COMPLAINANT(s)</b>	<b>ADMINISTRATIVE AGENCY OR COURT IN WHICH ACTION WAS FILED</b>	<b>NATURE OF THE COMPLAINT(s)</b>	<b>CURRENT STATUS</b>	<b>IF NOT PENDING, THE COMPLAINT'S DISPOSITION</b>
---------------------------------------	---	---------------------------------------	---------------------------	--

Question

18. Identify each job for which a physical qualification exists. Identify and explain the physical qualification(s) for each stated job. Submit job descriptions for each job and the reasons for the qualifications.

Question

19. Identify each job for which there exists any qualification related to age, race, color, national origin, sex, creed, disability, marital status, sexual orientation or citizenship status. Identify and explain the specific related qualification for each job stated. Submit job descriptions for each job and the reasons for the qualifications.

**D. PART III: CONTRACT BID INFORMATION AND PROJECTED AND CURRENT WORKFORCE FORMS**

- FORMA. CONTRACT BID INFORMATION - USE OF SUBCONTRACTORS/TRADES
- FORMB. CURRENT WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT.
- FORM C. PROJECTED WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT.

**PART III-A CONTRACT BID INFORMATION REGARDING USE OF SUBCONTRACTORS**

Your projections for the utilization of subcontractors on the proposed contract are to be provided in this section. Information is to be provided to the extent known at the time the ER is filed for review by DLS.

A chart has been provided for the identification of subcontractors. If "subcontractor's name" is unknown, so state. Under "ownership", enter the appropriate race/ethnic and gender code. If the contract is federally funded or assisted and the subcontractor is being utilized in accordance with applicable federal requirements with respect to Minority Business Enterprise or Woman Business Enterprise requirements, enter the appropriate code. This will also apply to state funded contracts with similar requirements for minority and female owned businesses.

**SIGNATURE PAGE**

The signatory of this Employment Report and all other documents submitted to DLS must be an official authorized to enter into a binding legal agreement.

**THE SIGNATURE PAGE MUST BE COMPLETED IN ITS ENTIRETY AND  
NOTARIZED. ONLY ORIGINAL SIGNATURES WILL BE ACCEPTED.**

- ATTACHMENT 9 -  
 NYC DDC PASS THROUGH REQUIREMENTS

**CRITERIA AND REQUIREMENTS FOR PASSTHROUGH CONTRACTS**  
**TABLE OF CONTENTS**

	Page
I. Introduction.....	1
II. Criteria.....	1
A. City Funding Threshold.....	1
B. Project Complexity/Expertise of Cultural Organization.....	1
C. Managerial Capability of Cultural Organization.....	2
D. Financial Capability of Cultural Organization.....	2
E. Status of Resulting Facility.....	2
F. Level of Private Funding.....	2
III. Passthrough Contract Terms.....	3
A. General.....	3
Reimbursable Costs/Directive #10.....	3
City Funded Work.....	3
B. Required Provisions.....	3
Prior Approval.....	3
Competitive Bidding.....	3
Wicks Law.....	4
LBE Program.....	4
VENDEX/DLS Submissions.....	4
Insurance.....	5
Bonding.....	5
IV. Contract Negotiation Process.....	5
A. Preliminary Discussions with DCA.....	5
B. Design Development.....	5
City Funded Design.....	5
Non-City Funded Design.....	5
C. Formal Passthrough Request.....	5
Justification Letter.....	6
Management Plan.....	6
Narrative Scope.....	6
Guaranteed Scope (Exhibit "A").....	7
Optional Scope (Exhibit "B").....	7
Board Resolution.....	7
Funding Plan.....	7
D. Program.....	7
E. Technical Review.....	7
F. Covenant Agreement.....	8
G. Necessary Regulatory Approvals.....	8
H. Drafting of Passthrough Contract.....	8
V. Passthrough Contract Approval Process.....	9
A. Contract Procurement.....	9
Executive Consultant Selection Committee (ECSC) Presentation.....	9
Public Advertisement.....	9
Public Hearing.....	9
Request for Award (RFA).....	9
B. Budget Approval.....	9
C. Submission of VENDEX and DLS Forms.....	9
D. Registration of Passthrough Contract.....	9
E. Award of Passthrough Contract.....	9
VI. Construction.....	10
A. Construction Kick-Off.....	10
B. Regulatory Compliance.....	10
VII. Conclusion.....	10

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**I. INTRODUCTION**

The passthrough contract mechanism provides a means for cultural institutions and organizations with funding from the New York City capital budget to modify to manage directly construction projects at their facilities. Through this mechanism, which is intended for complex capital projects of \$1 million or more, the cultural organization contracts directly with the City, which acts through its Department of Cultural Affairs (DCA) and Department of Design & Construction (DDC), agreeing to complete a guaranteed scope of work for a fixed financial contribution by the City. **The organization, not the City, bears the responsibility to cover any cost overruns.**

Through a passthrough contract, the cultural organization is given the right to oversee design, schedule work around its programmatic and operational needs, and select and supervise the subcontractors, **subject to certain City policies and procedures.** The passthrough contract mechanism differs from standard City construction contracts in that it (1) allows the cultural organization, rather than the City, to directly stage and supervise the work, (2) provides for a modified form of public bidding, and (3) enhances the integration of work that is both publicly and privately funded.

Passthrough contracts are the exception, rather than the rule, for City funded capital projects. The City makes the decision to award a passthrough contract on a case-by-case basis. The purpose of these guidelines is to set forth the criteria for the award of passthrough contracts, and the policy considerations and procedures applicable to the award of passthrough contracts.

**II. CRITERIA**

**A. CITY FUNDING THRESHOLD**

Passthrough contracts are only appropriate for projects in which the City has committed funds in excess of \$1 million.

**B. PROJECT COMPLEXITY/EXPERTISE OF CULTURAL ORGANIZATION**

One of the primary justifications for the passthrough contract is that it enables the City to benefit from the expertise of a particular cultural organization in (1) managing its premises, and (2) designing and constructing facilities intended for its special programmatic needs. Accordingly, a cultural organization requesting a passthrough contract must demonstrate that the successful completion of the project requires the special knowledge and expertise possessed by that organization.

Another justification for the passthrough contract is that by giving the cultural organization control over the phasing and scheduling of work, it enables the cultural organization to minimize disruption to the services it offers the public. Therefore, the cultural organization may demonstrate that the project presents complex scheduling issues which it is in the best position to resolve. For example,

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

the project may involve work in multiple locations, requiring precise phasing, program/personnel shifts or special security measures; or it may have to be done in dark time or at an accelerated pace so that public programming at the facility is not restricted. The need to fit the project within the context of a formal capital maintenance or master plan may also justify the use of a passthrough contract, provided that the organization has raised funding for, and is actively implementing, such plan.

**C. MANAGERIAL CAPABILITY OF CULTURAL ORGANIZATION**

Before a passthrough contract may be awarded, the cultural organization must evidence the ability to manage the overall project and supervise construction. Most helpful in this context is evidence that the cultural organization has a construction staff and has successfully managed projects of a similar size and complexity in the past. At the very least, the cultural organization must demonstrate that (1) it has someone on staff, or has engaged a consultant, with significant construction management experience, and (2) it is committed to ongoing capital planning and maintenance at its facility; e.g., by having a capital maintenance or master plan.

**D. FINANCIAL CAPABILITY OF CULTURAL ORGANIZATION**

In every passthrough contract, the cultural organization has the obligation to cover any and all cost overruns. The City will neither contribute more than the contract price, nor accept a scope of work less than that set out in the contract. The organization must establish a Project Reserve, consisting of non-City funds in an amount equal to at least 10% of the construction cost estimate approved by DDC. To qualify for a passthrough contract, a cultural must demonstrate its ability to meet these financial obligations.

**E. STATUS OF RESULTING FACILITY**

Passthrough contracts are most appropriate for projects that will result in facilities immediately usable by the cultural organization. For example, in the case of a museum wing which is in a state of disrepair and closed to the public, a complete renovation of one floor so that it can be reopened for public use is preferable to a partial restoration of the entire wing that does not enable the facility to reopen. In general, passthrough contracts are not awarded solely for purposes of design.

**F. LEVEL OF PRIVATE FUNDING**

An additional justification for the passthrough contract is that it empowers cultural organizations to use the City's funding to leverage private dollars for capital projects. For this reason, cultural organizations are generally expected to secure private contributions for passthrough projects to supplement the public funds committed by the City.

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**III. PASSTHROUGH CONTRACT TERMS**

**A. GENERAL**

**REIMBURSABLE COSTS/DIRECTIVE #10.** Under the passthrough contract, the City will pay only those direct costs incurred by the cultural organization in the performance of the work, up to an amount not to exceed the contract price. Construction costs will be paid on a reimbursement basis, and advance payments will be allowed only for the ordering of materials, fixtures and equipment. The City will pay only for costs that are capital eligible pursuant to **Internal Control and Accountability Directive #10** issued by the City Comptroller. The City will not, under any circumstances, reimburse a cultural organization for administrative or other overhead expenses, staff time, legal or accounting fees.

**CITY FUNDED WORK.** Regarding projects to be jointly funded by the City and the cultural organization, the City funded scope of work must be differentiated from the privately funded scope of work. Unless otherwise indicated, contract requirements will apply only to the City funded work.

**B. REQUIRED PROVISIONS**

Certain required provisions are standard to City passthrough contracts. This section discusses some of the major ones, but is not meant to be exhaustive.

**PRIOR APPROVAL.** Prior approval by the City is required for:

- Plans, specifications, and cost estimates at schematic, preliminary, and final design stages;
- Selection (and selection process) of subcontractors and consultants;
- Change orders affecting scope and/or operating costs and all change orders above \$15,000. Once the aggregate of unapproved change orders exceeds \$100,000, the City must approve all further change orders.

**Note:** Major scope changes may require an amendment to the contract and a new contract approval process.

**COMPETITIVE BIDDING.** The cultural organization, acting as prime contractor, must use a competitive sealed bid process for engaging subcontractors. At least three **qualified** bids must be obtained for each construction contract on the basis of written bid packages. The contract must be awarded to the low bidder, unless a waiver is granted by DDC, in strict adherence to the Rules of the Procurement Policy Board.

**Note:** Waivers are granted only in the rarest of cases. **Competitive bidding should be viewed by**

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**cultural organizations as an essential passthrough contract procedure.**

WICKS LAW. The cultural organization, acting as prime contractor, must bid the project with separate specifications for electrical, HVAC, and plumbing trades in compliance with the multiple contracting provisions of the New York State General Municipal Law, §101, also known as Wicks Law.

LBE PROGRAM. The cultural organization, acting as prime contractor, must award at least 10% of the passthrough contract amount specified for construction to subcontractors that are certified Locally Based Enterprises (LBEs), in compliance with Local Laws 49 and 25. Design and design-related scope items are exempt from the LBE requirement. The LBE program is administered by the Department of Business Services, Division of Economic and Financial Opportunity (DBS/DEFO). That agency maintains a directory of certified LBEs, which is updated daily.

The LBE program was first established by an Executive Order in 1980, and has been maintained by Local Laws 49 (1984) and 25 (1989). The purpose of the LBE program is to promote the development of business and employment within economically disadvantaged areas of the City and to ensure that small enterprises conducting business in such areas or employing economically disadvantaged persons receive a fair share of construction contracts awarded by the City. From 1992 to 1998, The LBE requirement was superseded by the Minority/Women Business Enterprise (M/WBE) requirement. However, the M/WBE requirement sunset in June 1998. As a result, the LBE requirement is once again in full force and effect.

If the cultural organization is not able to engage a sufficient number of LBEs to meet the 10% requirement, despite a good faith effort, it may request that DDC seek a full or partial waiver of the LBE requirement from DBS/DEFO. However, waivers are only granted in cases where the cultural organization has made every possible effort to comply with the LBE requirement.

VENDEX/DLS SUBMISSIONS. Both the cultural organization as prime contractor, and all of its subcontractors and consultants with contracts in excess of \$100,000 or with aggregate City contracts in excess of \$100,000 in a given year, must submit the necessary Vendor Information Exchange System (VENDEX) questionnaires. These questionnaires have been developed by the Mayor's Office of Contracts to collect information from vendors who wish to do business with the City. The information is collected to ensure that the City does business only with responsible vendors, as mandated by the City Charter. VENDEX questionnaires are subject to a multi-agency review involving DDC, the Department of Business Services (DBS), the Department of Investigation (DOI), and the Inspector General (IG). The duration of review depends on the quality and completeness of the vendor's submission.

The cultural organization, its subcontractors, and consultants with contracts in excess of \$50,000 or with aggregate City contracts in excess of \$50,000 in a given year must also submit a Division of Labor Services (DLS) employment report. The purpose of this report is to review the equal employment opportunity practices of vendors to ensure compliance with City policies.

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

Every passthrough contract requires a new VENDEX and DLS submission, regardless of past contracts and submissions. VENDEX and DLS approval must be obtained for the cultural organization itself before the passthrough contract can be registered with the City Comptroller. VENDEX and DLS approval must be obtained for subcontractors and consultants before they commence work on the project. Subcontractors and consultants who begin work prior to obtaining the necessary approvals assume the risk of non-payment by the City.

INSURANCE. The cultural organization must carry insurance on the project, including all risk (full replacement value), worker's compensation and statutory disability, general liability and property damage, and automobile liability. Subcontractors must also have general liability and property damage insurance. Architectural and engineering consultants must carry professional liability insurance.

BONDING. Performance and payment bonds will be required on all construction subcontracts exceeding \$250,000, except those awarded to LBEs.

#### IV. CONTRACT NEGOTIATION PROCESS

##### A. PRELIMINARY DISCUSSIONS WITH DCA

Cultural organizations interested in using a passthrough contract for a project to which City capital funds have been committed should contact DCA at the early stages of project development to discuss the feasibility of a passthrough.

##### B. DESIGN DEVELOPMENT

CITY FUNDED DESIGN. If the City capital appropriation for the project includes both design and construction funds, the City will first enter into a standard City design contract for the design of the project. In such instances, DDC will award a consultant contract to a design consultant selected through the City's regular consultant selection procedures in consultation with the organization.

NON-CITY FUNDED DESIGN. Because of the time necessary to award and register a City design contract, a decision by the cultural organization to fund design privately may hasten the progress of the project. However, prior to awarding a private design contract for a proposed passthrough project, the organization should obtain DCA and DDC approval of the selection of that consultant and the terms of the consultant's contract. Thereafter, DCA and DDC will review design documents and cost estimates at various milestones and, in addition, may do a value engineering study of the design.

##### C. FORMAL PASSTHROUGH REQUEST

Upon completion of design, a cultural organization intending to request a passthrough contract must formally advise DCA by sending to the Assistant Commissioner for Capital Projects all of the following documents:

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**JUSTIFICATION LETTER.** The letter must describe the project's background, detailing its objectives, its relation to a master plan, and the ways in which it would serve the public. The letter must also explain the circumstances of the project that justify use of a passthrough contract instead of standard City procedures, addressing the following criteria, which are described fully in §II(A)-(F) of these guidelines:

- City Funding Threshold;
- Project Complexity/Expertise of Cultural Organization;
- Managerial Capability of Cultural Organization;
- Financial Capability of Cultural Organization;
- Status of Resulting Facility; and
- Level of Private Funding.

**MANAGEMENT PLAN.** The project management plan must contain the following items:

- Statement of management strategy describing how the project will be staged and how it will be managed by the organization; i.e., by in-house staff, through a construction management firm, etc.;
- Statement of intended management methods with special attention on adhering to budget and schedule;
- Description of selection process for consultants and construction managers;
- Descriptions of the roles and responsibilities for each project team member;
- Projections of time to be spent by each team member on the project;
- Organizational flow chart indicating management structure;
- Resumes of the project team members with emphasis on credentials and experience relevant to the project; and
- Project schedule.

**NARRATIVE SCOPE.** The narrative scope should be a detailed, prose description of the overall project. It should include a discussion of the project's origin and purpose. If the project represents a particular phase of the cultural organization's master plan, it should describe the work already done

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

on the master plan and explain the relationship between the project and the master plan. The narrative scope should also specify the components of the project to which City funding would be applied.

GUARANTEED SCOPE (EXHIBIT "A"). This must be a comprehensive, detailed, and itemized scope of work for the City-funded portion of the project containing a discrete cost estimate for each item. The guaranteed scope items must be broken down into separate categories for design and other soft costs, general construction, plumbing, electrical, and HVAC. The guaranteed scope of work, after receiving final approval by DDC, will be annexed to the passthrough contract as Exhibit "A". The cultural is obligated to furnish all guaranteed scope items at no additional cost to the City.

OPTIONAL SCOPE (EXHIBIT "B"). The optional scope takes the same format as the guaranteed scope, but lists scope items to which a balance of funds may be applied upon completion of the Exhibit "A" items, should there be a cost savings on the project. The optional scope of work, after receiving final approval by DDC, will be annexed to the passthrough contract as Exhibit "B". Neither the construction contingency nor the Project Reserve may be used to fund optional scope items until the City has approved the substantial completion of the project.

BOARD RESOLUTION. The cultural organization must submit a resolution of its Board of Trustees, or analogous body, (1) guaranteeing completion of the project at no additional cost to the City, and (2) committing the cultural organization to the maintenance of a Project Reserve of private funds totaling at least 10% of the estimated cost of the guaranteed scope. The Board Resolution will be annexed to the passthrough contract as Exhibit "C".

FUNDING PLAN. The funding plan must outline all current and anticipated sources of financial support for the project, both public and private. For each funding source listed, the plan must indicate its status, when funds are expected to be received, any restrictions placed on the use of the funds, and to which scope items the funds would be applied.

#### **D. PROGRAM**

Upon receiving a cultural organization's formal request for a passthrough contract, DCA and DDC will review the request materials to determine whether the proposed project is appropriate for a passthrough contract. Should the agencies decide to proceed with a passthrough contract, DCA will notify the cultural organization, and issue a Program to DDC. A Program is a formal explanation of the project.

#### **E. TECHNICAL REVIEW**

Once DCA issues a Program to DDC, the cultural organization must submit to DCA and DDC the following items:

- 8 sets of design documents (7 sets for DDC; 1 set for DCA);

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

- Detailed professional cost estimate adhering to the format set forth in the **Guide for Design Consultants** issued by DDC; and
- Description of the selection process for the construction team including copies of the bids submitted by all subcontractors.

DDC will then conduct a technical review of the design documents. The purposes of technical review are to (1) verify project costs, (2) assess how well the project relates to on-going projects and future capital needs, (3) minimize the need for field change orders during construction, and (4) ensure that the project has been designed in the most efficient way possible. As part of its review, DDC will perform a verification of the cost estimate submitted by the cultural organization. In the case of technically complex projects with privately funded designs, DDC may choose to engage an outside consultant to perform a value engineering study. The purpose of such a study is to evaluate the feasibility of the design and investigate possible cost savings. The cost for such consultant's services would be taken from the City capital appropriation for the project.

Following technical review, the cultural organization must comply with any revisions to project documents requested by DCA or DDC. The project cannot move forward until all revised documents are received by the two agencies.

#### F. COVENANT AGREEMENT

In order to meet City capital eligibility requirements, cultural organizations whose facilities are not owned by the City must enter into a "declaration of restrictive covenant" agreement with the City, whereby they promise to operate as a **nonprofit cultural organization** for a period of approximately thirty years.

#### G. NECESSARY REGULATORY APPROVALS

Prior to contract execution, the cultural organization, with input from DCA and DDC, must obtain all necessary regulatory approvals pertaining to design, such as approval by the Art Commission, the Landmarks Preservation Commission, or completion of the Uniform Land Use Review Process (ULURP). The regulatory approvals required vary from project to project. Cultural organizations unsure about the requirements for any specific project should consult DCA or DDC.

#### H. DRAFTING OF PASSTHROUGH CONTRACT

Following technical review, counsel for DCA and DDC will initiate discussion of the passthrough contract with counsel for the cultural organization. As indicated in §III(B) of these guidelines, certain required provisions are standard to City passthrough contracts. The City will not agree to changes in its standard provisions unless a particular case presents a highly compelling circumstance.

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**V. PASSTHROUGH CONTRACT APPROVAL PROCESS**

**A. CONTRACT PROCUREMENT**

**EXECUTIVE CONSULTANT SELECTION COMMITTEE (ECSC) PRESENTATION.** ECSC is an internal DDC Commissioner-level committee that must review and ratify all procurement decisions.

**PUBLIC ADVERTISEMENT.** Following ECSC, DDC must advertise the passthrough project in the *City Record*.

**PUBLIC HEARING.** Public hearings are held on a regular basis by the Mayor's Office of Contracts (MOC) and must be calendared at least three weeks in advance. Passthrough contracts go to public hearing as "sole source agreements," which are regarded as special cases in the Procurement Policy Board Rules.

**REQUEST FOR AWARD (RFA).** Following the public hearing, DDC must submit a Request for Award (RFA) to MOC. Since passthrough contracts are for amounts in excess of \$1 million, the RFA must be approved by the Deputy Mayor in addition to MOC.

**B. BUDGET APPROVAL**

During the procurement process, the Office of Management & Budget (OMB) must issue a Certificate to Proceed (CP) and Budget Modification approvals. For contracts in excess of \$10 million, approval must also be obtained from the Financial Control Board.

**C. SUBMISSION OF VENDEX AND DLS FORMS**

VENDEX and DLS submissions are discussed at length in § III(B) above.

**D. REGISTRATION OF PASSTHROUGH CONTRACT**

After all necessary approvals have been issued, the passthrough contract may be executed and registered by the City Comptroller.

**E. AWARD OF PASSTHROUGH CONTRACT**

The final step in the passthrough contract approval process is award of the contract. Following registration by the Comptroller, DDC, through its Agency Chief Contracting Officer (ACCO) officially awards the passthrough contract.

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**VI. CONSTRUCTION**

**A. CONSTRUCTION KICK-OFF**

The construction kick-off may take place immediately following the award of the passthrough contract.

**B. REGULATORY COMPLIANCE**

It is the responsibility of the cultural organization to comply with all Codes and obtain all necessary inspections and approvals, e.g., Department of Buildings (DOB), Fire Department (FDNY), Landmarks Preservation Commission, Art Commission, in a timely manner, prior to substantial completion.

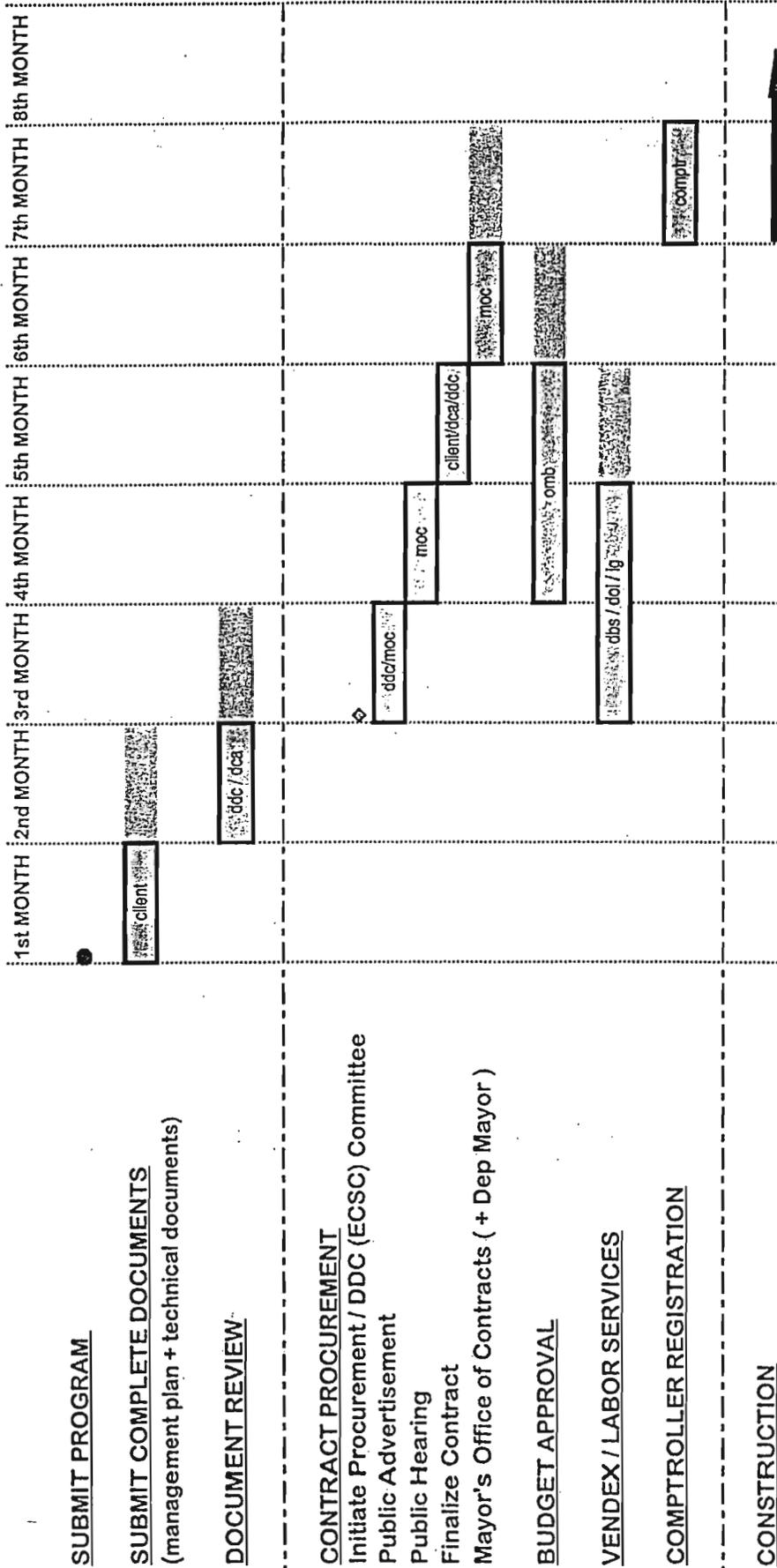
**VII. CONCLUSION**

These guidelines do not seek to detail every single procedure that must be followed prior to the award of a passthrough contract. Nor do they seek to address in detail the manner in which passthrough contracts are to be implemented following award. Rather, the intent of these guidelines is to explain the criteria for the use of passthrough contracts and to summarize the principal procedural steps involved in passthrough contract negotiation and approval. Questions regarding these guidelines or other aspects of passthrough contracting may be addressed to the Capital Projects Unit at the Department of Cultural Affairs.

02/13/01

- ATTACHMENT 9 -  
NYC DDC PASS THROUGH REQUIREMENTS

**PASS-THROUGH PROCESS TIMELINE**



*note: timeframes shown above are optimal durations without delays, and based on complete submissions + timely actions*

**Legend**

- dca = dept of cultural affairs
- ddc = dept of design and construction
- omb = office of management and budget
- dbs = dept of business services
- doi = dept of investigation
- moc = mayor's office of contracts
- ig = inspector general
- comptr = comptroller
- ecsc = exec consultant selection committee

**PASS-THROUGH PAYMENTS**  
**DOCUMENT CHECKLIST**

Contract Registration # \_\_\_\_\_ Payment # \_\_\_\_\_ Pay Period: from \_\_\_\_\_ to \_\_\_\_\_  
Payment:  Partial  Substantial Completion  Final  Other: \_\_\_\_\_

The following documents comprise a complete payment package. Two complete payment packages are to be submitted. One package is to contain all the originals; if there is no original, place a copy in the 'original' package. **(Please note: As used in this checklist, the term 'contractor' designates the Pass-through client institution; 'subcontractor' refers to the Client's prime contractor and their first level subcontractors.)**

<u>ORIGINALS</u>	<u>COPIES</u>	<u>DOCUMENT</u>	<u>ENCLOSED/AT SITE</u>
1	0	DDC Payment Routing & Signature Sheet	<input type="checkbox"/>
0	2	Document Checklist (this form)	<input type="checkbox"/>
1	1	Payment Requisition (Parts A and C) ** <i>(With spreadsheet backup documentation)</i>	<input checked="" type="checkbox"/>
1	1	Contractor Non-Discrimination Certificate **	<input checked="" type="checkbox"/>
1	1	Contractor Comptroller's Certificate (Notarized) **	<input checked="" type="checkbox"/>
1	1	Contractor's Payroll Report (Certified) **	<input checked="" type="checkbox"/>
1	1	Insurance: ACCO Cover Letter and Certificate	<input type="checkbox"/>
0	2	Approved Time Extension (if applicable) **	<input checked="" type="checkbox"/>
0	2	DDC Approval Letter for Subcontract Change Order <i>(if applicable)</i>	<input checked="" type="checkbox"/>
0	2	Substantial Completion Letter and Punch List <i>(Substantial Completion Payments only)</i>	<input type="checkbox"/>
1	1	Certificate of Completion & Acceptance <i>(Final Payments only)</i>	<input type="checkbox"/>
0	2	Final Time Extension <i>(Sub. Comp. &amp; Final Payments only)**</i>	<input checked="" type="checkbox"/>
0	2	Mylar/Record Drawing Receipts <i>(Final/S.C. Payments only)</i>	<input type="checkbox"/>
0	2	Contractor's Performance Evaluation <i>(Final Payments only)</i>	<input type="checkbox"/>
1	1	Release of Retainage Monies <i>(Retainage/Guarantee Releases only)</i>	<input type="checkbox"/>
<b>IF CONTRACTOR HAS SUBCONTRACTORS:</b>			
1	1	Subcontractor Payment Form (Notarized) **	<input checked="" type="checkbox"/>
1	1	Subcontractor Comptroller's Certificate (Notarized)	<input checked="" type="checkbox"/>
1	1	Subcontractor's Non-Discrimination Certificate	<input checked="" type="checkbox"/>
1	0	Subcontractor Payroll Report (Certified)	<input checked="" type="checkbox"/>
1	1	Subcontractor Payment Requisitions <i>(If CM holds construction contracts)</i>	<input checked="" type="checkbox"/>
1	1	Certification of Payment Requisition <i>(If CM holds construction contracts)</i>	<input checked="" type="checkbox"/>
<b>IF CONTRACTOR HAS STORED MATERIAL:*</b>			
1	1	Permission to Store Material **	<input checked="" type="checkbox"/>
1	1	Stored Material Summary Form **	<input checked="" type="checkbox"/>
0	2	Stored Material Invoices	<input checked="" type="checkbox"/>
1	1	Bill of Sale from Contractor to the City ** <i>(Notarized Blumberg Form A100)</i>	<input checked="" type="checkbox"/>
1	1	Affidavit: Vendor to Contractor (Notarized) **	<input checked="" type="checkbox"/>
<b>IF PAYMENT HAS ASBESTOS WORK:*</b>			
1	1	Waste Manifest Dump Ticket (at site for EAO Audit)	<input checked="" type="checkbox"/>

\* Insurance covering all stored material and asbestos work is required. For off-site storage, a Lease Agreement must be submitted and reviewed by DDC Legal Counsel.

\*\* Designates a form that requires the signature of the Pass-through client institution.

**NOTES: 1. An original is a document with an original signature. All originals must be signed in blue ink.**

**2. : Submitted by RE/CPM/DPM; : Submitted by Contractor. Check off  all documents enclosed/at site.**

# ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

## Exhibit A-3 Grantor and Grantee Recognition

Please find below guidelines for recognition of HUD and LMDC in any work done as a result of this subrecipient agreement. Note, any public information and all of the items below must be approved by LMDC in advance of publication or posting.

### Written documents

All written documents must include the following language, unless otherwise specified in writing by LMDC:

1. "This [program/project] is made possible by a grant from the Lower Manhattan Development Corporation, which is funded through Community Development Block Grants from the U.S. Department of Housing and Urban Development."
2. Written documents should also include the LMDC logo and the names of the Governor, Mayor, Chairman of LMDC, and President of LMDC.

### Internet information and e-mail information

1. Internet information must include all of the items required for written documentation and a link to LMDC's website.

### Offices open to the public providing services funded by LMDC

1. All offices must include a sign including all of the items required for written documentation.

### Construction Signs

1. All construction signs must include a sign including all of the items required for written documentation.
2. All construction signs must also include the name of the project, an expected end date for the project, the name of the subrecipient, and a phone number for the public to call to obtain information about the project. This must be a phone number maintained by the subrecipient or one of its subcontractors.

### Completed Projects

1. All completed projects must include permanent recognition of LMDC. The subrecipient is required to submit to LMDC for written approval the proposed permanent recognition.

**Exhibit A-4**  
**LMDC STANDARD RECORD LIST**

**FINANCIAL RECORDKEEPING.**

**General**

- \_\_\_ Record of CDBG funds received
- \_\_\_ Record of CDBG funds disbursed
- \_\_\_ Documentation of CDBG expenditures including subconsultant and subcontractor expenditures
- \_\_\_ Review of expenditures
- \_\_\_ Payment requests
- \_\_\_ Source documentation (bills, receipts, copies of cancelled checks, etc.)
- \_\_\_ General ledger (assets, liabilities, income, and expenses)
- \_\_\_ Income by category or grant
- \_\_\_ Expenses by category or grant
- \_\_\_ Cash disbursements
- \_\_\_ Payroll reports including details relating to overtime
- \_\_\_ Time records for employees and subconsultant employees
- \_\_\_ Correspondence between Subrecipient and LMDC regarding budget changes or authorizing any contract amendments.
- \_\_\_ Audit files (work papers, reports, auditee responses, and other audit correspondence)
- \_\_\_ Documentation of internal controls including but not limited to policies and procedures
- \_\_\_ The results and response to any fiscal monitoring findings

**Procurement:**

- \_\_\_ Local Procurement Procedures
- \_\_\_ Procurement Small Purchase Method (\$100,000 or less/consultation)
  - \_\_\_ price quote documentation (at least three)
  - \_\_\_ scope of work
  - \_\_\_ selection methodology and justification
  - \_\_\_ verification of contract insurance
- \_\_\_ Competitive Sealed Bid (construction)
  - \_\_\_ Invitation for Bid (IFB)
  - \_\_\_ public notice
  - \_\_\_ mailing list of recipients
  - \_\_\_ bids received
  - \_\_\_ documentation of selection process, cost estimate evaluation/rating
  - \_\_\_ price and cost analysis/ cost reasonableness
  - \_\_\_ justification if cost is 20% over estimate
  - \_\_\_ verification of contractor eligibility
  - \_\_\_ verification of contractor insurance

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

- \_\_\_ Competitive Proposal (over \$100,000)
  - \_\_\_ Request for Proposal (consulting) or
  - \_\_\_ Request for Qualifications (engineering/architectural services)
  - \_\_\_ public notice
  - \_\_\_ mailing list of recipients
  - \_\_\_ proposals received
  - \_\_\_ documentation of selection process (RFP only)
    - \_\_\_ cost estimate evaluation/rating
    - \_\_\_ "Best and Final" offers
  - \_\_\_ documentation of selection process (RFQ)
    - \_\_\_ "most qualified" determination
  - \_\_\_ negotiation of fair and reasonable price
  - \_\_\_ price and cost analysis/ cost reasonableness
    - \_\_\_ justification if cost is 20% over estimate
  - \_\_\_ verification of contractor insurance
- \_\_\_ Non-Competitive Proposals/Sole Source
  - \_\_\_ memorandum summarizing justification
  - \_\_\_ documentation of sole source determination
  - \_\_\_ price and cost analysis/ cost reasonableness
    - \_\_\_ justification if cost is 20% over estimate

**PROGRAM RECORDKEEPING.**

**Policy**

- \_\_\_ Personnel Handbook
- \_\_\_ Drug Free Workplace Policy
- \_\_\_ Fair Employment Policy/Posting
- \_\_\_ Procurement Policy
- \_\_\_ Equal Opportunity Employment Policy (employment and contracting)
  - \_\_\_ Title IV
  - \_\_\_ Section 504
  - \_\_\_ ADA
  - \_\_\_ Section 3
  - \_\_\_ Affirmative Action

**Contracts**

- \_\_\_ Signed contract(s)/Amendment(s)
- \_\_\_ Files for each contractor including:
  - \_\_\_ Contractor's and subcontractors' certifications
  - \_\_\_ Payrolls and Statements of Compliance for each week
  - \_\_\_ Employee interview records
  - \_\_\_ Trainee/apprentice program certification/registration
  - \_\_\_ Letters authorizing payroll deductions
  - \_\_\_ Letters authorizing fringe benefit funds

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

**National Objective/Public Benefit – General Program:**

- \_\_\_ Demographic data re: target area and beneficiaries
- \_\_\_ Job recruitment, training, and hiring documents
- \_\_\_ Demographic data re: employees, applicants, and interviewees
- \_\_\_ Minority and women-owned business solicitation lists
- \_\_\_ Section 3 documentation, records and reports
- \_\_\_ Section 504 compliance self-evaluation and documentation
- \_\_\_ TIG minorities and women hires
- \_\_\_ Affirmative action goals

**Environmental records:**

- \_\_\_ Environmental assessment and determination

**ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
EXHIBIT A-5: MONTHLY PROGRESS REPORT**

**PROJECT #:**

**SUBRECIPIENT NAME:**

**PROJECT NAME:**

**PERIOD (MONTH):**

**PROJECT AMOUNT:**

**OBLIGATION DATE:**

**PROJECT DESCRIPTION:**

**COMMUNITY AND DEVELOPMENT NEEDS:**

**PUBLIC INVOLVEMENT:**

**FUNDING SOURCES:**

**FUNDS**

LMDC Standard Subrecipient Agreement Boilerplate (March 2006)  
Exhibit A-5

**EXHIBIT A-5: MONTHLY PROGRESS REPORT**

Total Projected Budget:	\$ .00
Total HUD Disaster Recovery Funds:	\$ .00
Obligated HUD Disaster Funds to Date:	\$ .00
Unobligated HUD Disaster Funds to Date:	\$0.00
Cumulative HUD Disaster Funds to Date:	\$ .00

**ACTIVITIES: SCHEDULE**

Activities	Measure Description	Expected Start	Expected Completion	Completed to Date

**OVERALL: ACCOMPLISHMENTS AND BENEFICIARIES**

Measure Description	Number of Beneficiaries	Month
Number of Businesses Benefiting		
Number of Non-business Organizations Benefiting		
Number of M/WBE Businesses Benefiting		
Number of Public Facilities		
Number of Linear Feet of Public Improvement		
Number of Temporary Jobs Created		
Number of Permanent Jobs Created		

**ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
EXHIBIT A-5: MONTHLY PROGRESS REPORT**

**ENVIRONMENTAL PERFORMANCE COMMITMENTS:**

<b>Commitment</b>	<b>Implementation Measure</b>	<b>Implementation Date</b>

**REPORT NARRATIVE FOR THIS PROJECT FOR THIS PERIOD:**

**Exhibit A-6**

**Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING GUIDELINES**

**I. INTRODUCTION**

To fulfill its program management responsibilities, LMDC will monitor the subrecipient's grant activities during the term of the subrecipient agreement to ensure the subrecipient has expended HUD Community Development Block Grant (CDBG) funds only for the specified purposes and has performed the terms of the subrecipient agreement. This process may include, but is not limited to, audits of relevant program records and data, site visits, progress reports, and regular communication about the project's status. The broad areas to be monitored include general compliance, procurement practices and contract execution, and financial management/audit controls.

**II. SUBRECIPIENT RESPONSIBILITIES**

The subrecipient is responsible for carrying out all terms of the subrecipient agreement, and for maintaining records of the program activities and making them available to the LMDC and its designees for monitoring or audit purposes. The subrecipient is obligated to appropriately manage and monitor its contractors (often referred to as subcontractors in LMDC materials).

These guidelines are provided to assist the subrecipient in monitoring its contractors. These guidelines measure compliance with work performance, equal opportunity and other workforce requirements, procurement procedures, and financial management. These forms are intended to be used in an interview or site visit. Such monitoring should be conducted at reasonable and relevant intervals (such as early in the contract and then annually or at contract completion).

More routine monitoring of project performance, workforce and expenditures could be captured in monthly status reports, invoices, workforce reports (Exhibits A-7; A-8; C-1; C-2) and other similar reports. The Subrecipient is responsible for resolving any monitoring findings (i.e., findings of non-performance or non-compliance with applicable requirements) in a timely manner. The subrecipient shall report its monitoring findings and any corrective actions in its Monthly Progress Reports (Exhibit A-5).

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT  
Summary Sheet

Subcontractor: \_\_\_\_\_ Contract #: \_\_\_\_\_

Completed By: \_\_\_\_\_ Date(s): \_\_\_\_\_

**Summary of Checklists Used**

The following forms or checklists were used to monitor this contract on the date(s) indicated above. (Forms not used or not applicable for this contract can be indicated by NA.)

- \_\_\_\_\_ 1. General Compliance
- \_\_\_\_\_ 2. Procurement Checklist
- \_\_\_\_\_ 3. Vendor Contracts Checklist
- \_\_\_\_\_ 4. Financial Management/ Audit Controls

**Summary of Exit Interview**

Persons in attendance:

<u>Name</u>	<u>Title</u>	<u>Organization</u>

Items discussed:

---



---



---



---

**Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT**

**General Compliance Checklist**

Subcontractor: \_\_\_\_\_ Contract #: \_\_\_\_\_

Completed by: \_\_\_\_\_ Date(s): \_\_\_\_\_

Checklist Table of Contents

- A. Work Performance
- B. Equal Opportunity
- C. Employment
- D. Drug-Free Workplace
- E. Recordkeeping
- F. Insurance
- G. Signs

*(Asterisked items can be completed prior to the monitoring):*

**\*A. Work Performance**

*1. <u>Names of Activities (including Gen Adm):</u>	<u>Budgeted Amount</u>	<u>Expended to date</u>
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
<b>TOTALS:</b>	\$ _____	\$ _____

Y N \*2. Has the subcontractor met the contract or grant expenditure milestones?

**Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT**

**General Compliance Checklist**

**B. Equal Opportunity Compliance**

- Y N 1. Does the subcontractor complete Schedule C-1 as required? If not, ask subcontractor to produce at monitoring interview. What is the date of the last submission? \_\_\_\_\_
  
- Y N 2. Does the subcontractor complete Schedule C-2 as required? If not, ask subcontractor to produce at monitoring interview. What is the date of the last submission? \_\_\_\_\_
  
- Y N 3. Does the subcontractor complete Exhibit A-7 as required? If not, ask subcontractor to produce at monitoring interview. What is the date of the last submission? \_\_\_\_\_
  
- Y N 4. Does the subcontractor complete Exhibit A-8 as required? If not, ask subcontractor to produce at monitoring interview. What is the date of the last submission? \_\_\_\_\_
  
- 5. What actions (e.g., outreach; processing; written policies prohibiting discrimination, segregation, or separate treatment) does the subcontractor take to ensure that CDBG activities are carried out in a manner that does not discriminate against persons on the grounds of race, color, national origin, sex, age, disability or religion?
  
- Y N 6. Have there been any discrimination complaints? If yes, what was the basis and how has the subcontractor resolved them?
  
- Y N 7. Did the subcontractor complete a Section 504 Self-Evaluation? (Section 504 refers to the Federal regulations prohibiting discrimination against the handicapped in any federally assisted program).
  
- Y N 8. If the self-evaluation of Section 504 compliance revealed deficiencies, did the jurisdiction take adequate steps to modify deficient policies and practices or explain why infeasible? Explain

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
**Lower Manhattan Development Corporation**  
**SUBRECIPIENT MONITORING REPORT**

**General Compliance Checklist**

**C. Employment**

Y N 1. Does the subcontractor have written employment and personnel policies which cover equal opportunity provisions? If not, explain:

Y N 2. Is the subcontractor required to undertake an affirmative action program because of past compliance problems or court action? If yes, explain what actions have been taken:

Y N 3. Are there currently any lawsuits or administrative complaints pending due to alleged problems in equal employment opportunity practices? If yes, explain:

**“SECTION 3” CLAUSE:** (HUD Act of 1968, as amended, and as implemented by regulations set forth in 24 CFR Part 135)

Section 3 clause requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area.

Y N 4. Does Section 3 apply to the subcontractor? *(If yes, answer questions 4a-4c):*

Y N 4. a. Has the subcontractor submitted an annual Section 3 report? If no, explain:

Y N 4. b. Are the subcontractor's Section 3 records maintained? Explain:

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
**Lower Manhattan Development Corporation**  
**SUBRECIPIENT MONITORING REPORT**

**General Compliance Checklist**

Y N 4. c. Has the subcontractor filled any employee vacancies in positions involved in working on CDBG activities covered by Section 3? If yes, explain what efforts the subcontractor has made to offer training and employment opportunities to Section 3 residents:

**D. Drug-free Workplace Certification**

Y N 1. Has the subcontractor published and distributed a statement notifying employees that it is unlawful to:  
\_\_\_\_ manufacture,  
\_\_\_\_ distribute,  
\_\_\_\_ dispense,  
\_\_\_\_ possess, or  
\_\_\_\_ use a controlled substance, and  
\_\_\_\_ detailed specific actions to be taken against employees for violations, as required by Government Code Section 8355 (b)?

If no, explain deficiencies:

Y N 2. Has the subcontractor established a Drug Free Awareness Program to inform employees about all of the following:  
\_\_\_\_ the dangers of drug abuse in the workplace;  
\_\_\_\_ the organization's policy of maintaining a drug free workplace;  
\_\_\_\_ any available counseling, rehab., and employee assistance programs;  
\_\_\_\_ penalties that may be imposed upon employees for drug abuse violations.

Explain any deficiencies:

Y N 3. Has the subcontractor, as required by Government Code Section 8355 (c), insured that every employee who works under this contract:  
\_\_\_\_ received a copy of the subcontractor's drug free policy statement; and  
\_\_\_\_ will agree to abide by the terms of the subcontractor's statement as a condition of employment under this contract.

Explain any deficiencies:

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT

General Compliance Checklist

E. Recordkeeping

- Y N 1. Does subcontractor have a recordkeeping system that includes all of the following:
- financial,
  - contractual,
  - environmental,
  - performance,
  - beneficiary,
  - complaint data, and
  - budget and approved amendments

Explain any deficiencies noted when monitoring:

F. Insurance

- Y N 1. Does subcontractor have documentation showing current appropriate amounts of insurance coverage (e.g., liability, property)? Explain:

G. Signs

- Y N 1. If subcontractor posted signs regarding the financing of the project, did it include the LMDC and HUD as a funding source? If not, explain why not:

- Y N 2. Is subcontractor complying with Exhibit A-3, Grantor and Grantee Recognition? If not, explain why not:

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT

General Compliance Checklist

H. Site Inspection:

Y N 2. For projects still under construction, were each of the following posted on a bulletin board prominently located on the project site which can be seen easily by the workers?

\_\_\_ Wage decision?

\_\_\_ Notice to Employees?

Comments:

Y N 3. Is the subcontractor prepared to keep all payroll records for at least four years after the final reports are submitted by the Subrecipient to the Grantee? If not, discuss:

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING GUIDELINES

Procurement Checklist

Subcontractor: \_\_\_\_\_ Contract #: \_\_\_\_\_

Completed by: \_\_\_\_\_ Date(s): \_\_\_\_\_

(To be completed by the subrecipient at the time of procurement. Note that all subcontractors must be approved by the LMDC in writing).

Y N 1. Is there documentation on file of how the contractors were selected and equipment or supplies procured?

*(Procurement File)*

- \_\_\_\_\_ Documentation of price quotes received for items or services procured with **small purchase method**
- \_\_\_\_\_ Request for Proposals (**RFPs**) and/or Invitations for Bid (**IFBs**)
- \_\_\_\_\_ **Public notices** of RFPs or IFBs
- \_\_\_\_\_ **Mailing list** of RFP or IFB recipients
- \_\_\_\_\_ All **qualification statements, proposals and/or bids received**
- \_\_\_\_\_ RFP ratings and **documentation of selection process**
- \_\_\_\_\_ Documentation of selection for IFB, if lowest bidder not selected
- \_\_\_\_\_ **Sole source/single bid** justification and approval letters, if applicable
- \_\_\_\_\_ Cost estimates/data used to determine **cost reasonableness**
- \_\_\_\_\_ Verification of **contractor eligibility**

*(Contracts File)*

- \_\_\_\_\_ Signed **contracts** and all approved amendments
- \_\_\_\_\_ For all of its contractors and subcontractors, does subrecipient have documentation showing **adequate insurance coverage**

Comments:

**ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT**

**Private Vendor Subcontracts Checklist**

Subcontractor: \_\_\_\_\_ Contract #: \_\_\_\_\_

Completed by: \_\_\_\_\_ Date(s): \_\_\_\_\_

1. Are the following clauses from the subrecipient agreement found in the subcontract(s)?

**List of Required Terms**

Pursuant to Section X.D.2.c. of the Subrecipient Agreement, the Subrecipient must include the following provisions in any private vendor subcontracts executed in the performance of the Agreement.

VII.A. General Compliance
VII.C. Hold Harmless
VII.D. Workers' Compensation
VII.E. Insurance and Bonding
VII.E.1 Commercial General Liability Insurance
VII.E.2 Automobile Liability and Property Damage Insurance
VII.E.3 Workers' Compensation
VII.E.4 Excess Liability Insurance
VII.E.5 Certificates of Insurance
VII.F. Grantor/Grantee Recognition
VII.H. Suspension or Termination
VIII.B.2. Records Retention
VIII.B.3. Personal Data
VIII.B.4. Disclosure
VIII.B.5. Property Records
VIII.B.6. Close-Outs
VIII.B.7 Audits and Inspections
IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT
X. PERSONNEL AND PARTICIPANT CONDITIONS
X.A. Civil Rights
X.A.1. Compliance
X.A.2. Nondiscrimination
X.A.3. Land Covenants
X.A.4. Section 504
X.B. Affirmative Action
X.B.1. Compliance with E.O. 11246
X.B.2. M/WBE (Schedule C)
X.B.3. Access to Records

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

**Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT**

**Private Vendor Subcontracts Checklist**

X.B.4. Notifications
X.B.5. EEO/AA Statement
X.B.6. Subcontract Provisions
X.C. Employment Restrictions
X.C.1. Prohibited Activity
X.C.2. Labor Standards (Davis-Bacon Act)
X.C.3. "Section 3" Clause
X.C.3.a. Compliance
X.C.3.b. Notifications
X.C.3.c. Subcontracts
X.C.3.d. Reporting. (Quarterly reports - Exhibit A-7)
X.C.4. September 11, 2001 Recovery
X.C.4.a. Compliance
X.C.4.b. Reporting. (Quarterly reports - Exhibit A-8)
X.D.3. Hatch Act
X.D.4. Conflict of Interest
X.D.5. Lobbying
X.D.6. Copyright
X.D.7. Religious Organization
XI. ENVIRONMENTAL CONDITIONS
XI.A. Air and Water
XI.A.1 Clean Air Act, 42 U.S.C. § 7401, <i>et seq.</i> ;
XI.A.2 Federal Water Pollution Control Act;
XI.A.3 Environmental Protection Agency ("EPA") regulations pursuant to 40 CFR Part 50, as amended.
XI.B. Flood Disaster Protection
XI.C. Lead-Based Paint
XI.D. Historic Preservation
XI.E. Environmental Performance Commitments

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING GUIDELINES

Financial Management / Audit Controls Checklist

Subcontractor: \_\_\_\_\_ Contract #: \_\_\_\_\_

Completed by: \_\_\_\_\_ Date(s): \_\_\_\_\_

A. CASH RECEIPTS

Y N 1. Are LMDC/HUD funded cash receipts accounted for separately by grant or activity? Explain:

Y N 2. Does the cash received reported to the subrecipient or LMDC agree with the Subcontractor's recorded cash receipts? Explain:

B. CASH DISBURSEMENTS

1. Does the Subcontractor account for HUD CDBG expenditures separately by:  
a. Grant?

Y N

b. Grant activity? (i.e., Rehab, Program Admin., General Admin.)  
Explain:

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS

**Lower Manhattan Development Corporation  
SUBRECIPIENT MONITORING REPORT**

**Financial Management / Audit Controls Checklist**

Y N 2. Are the audit trails in the Subcontractor's records adequate to trace back to the source documents? Explain:

Y N 3. Does the cash disbursed reported to the subrecipient or LMDC agree with the Subcontractor's records? Explain:

4. Answer the following questions based on your review of the Subcontractor's expenditures:

Y N a. Are the expenditures being charged to the proper activities?

Y N b. Are they eligible CDBG costs?

Y N c. Are source documents maintained to support the charges?

Y N d. Are the costs budgeted?

Explain:

ATTACHMENT 11 - ADDITIONAL NOTIFICATION, RECOGNITION and REPORTING REQUIREMENTS  
**Lower Manhattan Development Corporation**  
**SUBRECIPIENT MONITORING REPORT**

**Financial Management / Audit Controls Checklist**

**C. REPORTING THE STATUS OF CDBG FUNDS**

Y N 1. Does the Subcontractor maintain records that will reconcile the accrued expenditures reported to the subrecipient or LMDC to their books of original entry? Explain:

Y N 2. If the subcontractor prepares the financial reports submitted to the Subrecipient, does the Subrecipient reconcile the reported amounts to their books of original entry? Explain:

Y N 3. Are the reports submitted within the allowable time frame? Explain:

Y N 4. Is program income used before requesting CDBG funds when applicable? Explain:

**D. OTHER**

Y N 1. If audits disclose any findings for the CDBG program, does the subcontractor have a procedure for resolving the findings? Explain:

