

ARKANSAS COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAM (ACEDP)

ACEDP SAMPLE BID PACKAGE FOR LMI HOOKUPS



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The Economic Development Commission does not discriminate on the basis of Race, Color, National Origin, Sex, Age, Religion or Disability; and provides upon request, reasonable accommodation including auxiliary aids and services necessary to afford an individual with a disability an equal opportunity to participate in all programs and activities.

**Sample Bid Package/Contract Documents
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Attachment 9A
Sample Bid Package/Contract Documents
Sample Plumbing Contract Bid Advertisement

Date: _____

_____ (City/County) Plumbing Hookup Project
ACEDP Grant #790-0_____

Sealed bids from licensed contractors for the plumbing connections of low and moderate income residents to the _____ (Utility) system in _____, Arkansas, will be received by:

until _____ (Time) _____ (Date) and then at said location publicly opened and read aloud.

The scope of work consists of

Instruction to Bidders, Bid and Contract Forms, Specifications, Work Write-ups and other contract documents may be examined and obtained at

The owner reserves the right to waive any informalities or to reject any or all bids. Bidders may not withdraw their bids within 30 days after the date of bid opening. All bidding processes shall be in accordance with State law.

To request bidding information or obtain further information contact:

(Grantee's Signatory Agent) _____

(Name of City or County) _____

Attachment 9B

Sample Bid Package/Contract Documents
Instruction to Bidders

The following information is provided to prospective bidders of ACEDP-funded utility connection projects:

1. Receipt and Opening of Bids

The _____ (herein identified as "Owner"), invites bids on the form attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the Owner at the office of _____ until _____ o'clock *a.m./p.m.*, _____ *CST* _____ (date) and then at said office publicly opened and read aloud. The envelopes containing the bids must be sealed, addressed to _____ at _____ and designated as Bid for _____.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 30 days after the actual date of the opening.

2. Preparation of Bid

Each bid must be submitted on the prescribed form and accompanied by completed Certification of Bidder Regarding Equal Employment Opportunity and Contractor Section 3 Certification forms. All blank spaces for bid prices must be filled in, in ink or typewritten, and the above forms must be fully completed and executed when submitted.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form.

3. Facsimile/Telegraphic Modification

Any bidder may modify his bid by facsimile/telegraphic communication at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the Owner prior to closing time, and, provided further, the Owner is satisfied that a written confirmation of the facsimile/telegraphic modification over the signature of the bidder was mailed prior to closing time. The communication should not reveal the bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not

received within two days after closing time, no consideration will be given to the facsimile/telegraphic modification.

4. **Method of Bidding**

The Owner invites the following bid(s):

5. **Qualifications of Bidder**

The Owner may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids shall not be accepted.

6. **Bid Security**

Each bid must be accompanied by a certified check from the bidder, or a bid bond prepared on the form of bid bond attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount of 5 percent of the bid. Such check or bid bond will be returned to all except the three lowest bidders within three days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the Owner and the accepted bidder have executed the contract, or, if no award has been made within 30 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

7. **Liquidated Damages for Failure to Enter into Contract**

The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

8. **Time of Completion and Liquidated Damages**

The bidder must agree to commence work on or before a date to be specified in a written Notice to Proceed issued by the Owner and to fully complete the project within _____ consecutive calendar days thereafter. Bidder must agree also to pay as liquidated damages, the sum of \$ _____ for each consecutive calendar day thereafter.

9. **Conditions of Work**

Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provision of his contract. Insofar as possible the contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

10. **Addenda and Interpretations**

No interpretation of the meaning of the write-ups, specifications or other prebid documents will be made to any bidder orally. Every request for such interpretation should be in writing addressed to _____ at _____ and, to be given consideration, must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the contract documents which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective addresses furnished for such purposes), not later than three days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

11. **Security for Faithful Performance**

Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bonds shall be a duly authorized surety company satisfactory to the Owner.

12. **Power of Attorney**

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

13. **Notice of Special Conditions**

Attention is particularly called to those parts of the contract documents and specifications which specify the following:

- Bonding and Insurance Requirements.
- General Conditions of the Contract.
- Regulatory Requirements.

14. **Laws and Regulations**

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

15. **Method of Award - Lowest Qualified Bidder**

If at the time this contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the Owner as available to finance the contract, the contract will be awarded on the base bid only. If such bid exceeds such amount, the Owner may reject all bids or may award the contract on the base bid combined with such deductible alternates (if applicable) applied in the numerical order in which they are listed in the Bid Form, as produces a net amount which is within the available funds.

16. **Obligation of Bidder**

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the work write-ups and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect of his bid.

17. **Safety Standards and Accident Prevention**

With respect to all work performed under this contract, the contractor shall

- Comply with the safety standards provisions of applicable laws, building and construction codes and the Manual of Accident Prevention in Construction: published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596, and the requirement of Title 29 of the Code of Federal Regulations, Section 1518 as published in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971), and specifically OSHA's Standard for Excavation and Trenches Safety Systems, 29 CFR Part 1926, Subpart P.
- Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.
- Maintain at his office or other conspicuous place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site.

For Contracts with Excavation in Excess of 5 Feet

- A separate lump sum bid item must be included for Excavation/Trench Safety System (for excavation in excess of 5 feet). Bidder is required to complete this pay item in accordance with Act 291 of the Arkansas 79th General Assembly.
- In the event a bidder fails to complete this pay item, the Owner shall declare that the bid fails to comply fully with the provisions of the specifications and bid documents and will be considered invalid as a nonresponsive bid. Payment for the lump sum bid item for Excavation/Trench Safety System will be paid at the completion of the contract. No partial payments will be allowed thereunder.

Attachment 9C
Sample Bid Package/Contract Documents
Bid Form

_____, (City/County), Arkansas
 _____ Type of Project
 _____ Location of Project
 Grant # 790-_____ ACEDP Project Number

As bidder, _____(insert name of corporation, partnership or individual), in accordance with your invitation for bids for the construction of the above-identified project, having examined the work write-ups, specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices as stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this proposal is a part.

The bidder agrees to perform all work identified above for the following unit prices:

Location of individual structures	Name of occupant	Base bid amount
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		

Excavation/Trench Safety (See General Conditions of Contract) \$ _____

TOTAL BID \$ _____

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the complete project.

If deductive alternatives are to be included

Deductive Alternate No 1: _____
Deduct the sum of: “ _____ ” \$ _____
Total Base Bid minus Deductive Alternate No. 1 \$ _____

Deductive Alternate No. 2: _____
Deduct the sum of: “ _____ ” \$ _____
Total Base Bid minus Deductive Alternative No. 1 and No. 2 \$ _____

Bidder hereby agrees to commence work under this contract within 10 days after receiving a Notice to Proceed from the Grantee and to fully complete the project within _____ consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$ _____ for each consecutive calendar day thereafter.

Bidder acknowledges receipt of the following addendum:

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the date of bid opening.

Upon receipt of written notice of the acceptance of this bid, bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or bonds as required by the General Conditions.

The bid security attached in the sum of \$ _____ is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted by

(Seal - if bid is by corporation)

(Title)

(Business address and Zip Code)

(Date)

By: _____

(Signature)

Company DUNS Number

(Please Print Name of Owner/Contractor)

Individual/Company Tax ID Number

Attachment 9D
Sample Bid Package/Contract Documents
Utility Plumbing and Conversion Contract and General Conditions

THIS AGREEMENT, made and entered into on _____ (Date) by and between _____, hereinafter called the "Contractor" and _____, hereinafter called the "Owner".

In consideration of the mutual premises and agreements contained herein, the undersigned Contractor and Owner agree as follows:

A. THE CONTRACTOR SHALL:

- Furnish all labor, materials, tools, machinery, supervision and services necessary to perform all of the work in accordance with the description of work consisting of all work write-ups, specifications and supplemental contract documentation, *dated* _____ on the properties located in _____, Arkansas, for the sum of \$_____. All work write-ups shall be made part hereof by reference.
- Perform all work timely and diligently in a good and workmanlike manner using approved or equal materials as specified by the Grantee.
- Begin work within 10 calendar days of receipt of the written Notice to Proceed and shall complete the work within _____ calendar days thereafter.
- Carry Worker's Compensation and Employer's Liability Insurance in accordance with the laws of the State of Arkansas for all persons engaged in work at the site; and carry Contractor's Public Liability and Property Damage Insurance and Comprehensive Automobile Liability Insurance.
- Furnish, before beginning the work, a Certificate of Insurance showing compliance with the provisions of Section A, Paragraph 4 above.
- Obtain and pay for all permits and licenses for the execution and completion of the work and labor to be performed under this contract.
- Keep the premises clean and orderly during the work and upon substantial completion of the contract, remove all rubbish, tools, scaffolding, and surplus materials from and about the site(s) and leave the work and premises consistent with prior appearance or equivalent. Material and equipment that have been removed and replaced as part of the work shall belong to the contractor.
 - contract without written consent from the Owner and the Agency.
 - work performed for a period of twelve months from the date of final acceptance of all work required by this contract. Furthermore, furnish the Owner and the Grantee with all manufacturers and supplier's written guarantees and warranties covering materials and equipment furnished under this contract.
- Furnish the Owner, upon completion of the work and upon final payment by the Agency, a Release of Lien Form certifying that all charges for materials, labor, and/or

any other expenses incurred by the Contractor pertaining to the execution of this contract have been paid in full.

- Indemnify and hold harmless and defend the Owner, the Arkansas Economic Development Commission their agents, servants or employees from and against any and all claims for injuries or damages to persons or property of any kind or character, whatsoever, whether real or asserted, arising out of the performance of this contract. Furthermore, shall assume all liability and responsibility for injuries, claims or suits for damages, to persons or property of any kind or character, whatsoever, whether real or asserted, arising out of the performance of this contract.

B. THE OWNER SHALL:

1. Not make, or permit to be made, any changes to the description of work, without written approval from the Arkansas Economic Development Commission.
2. Permit the Contractor to use existing utilities such as lights, heat, power and water necessary to carry out and complete the work as specified.
3. Cooperate with the Contractor to facilitate the performance of the work.
4. Issue a written Notice to Proceed to the Contractor within ten (10) days from the date of this agreement.

C. METHOD OF COMPENSATION:

1. Unless otherwise agreed to in writing by the Owner, Contractor and the Grantor, payment for the work performed shall be made in one lump sum and shall be paid to the Contractor within twenty (20) days after the work is completed and after the Arkansas Economic Development Commission has received the Contractor's Final Invoice and a satisfactory release of liens, or claims for liens, by subcontractors, laborers and material supplies for completed work or installed materials.
2. The Contractor shall be liable for and shall pay to the Owner the sum of \$_____ as fixed, agreed and liquidated damages for each calendar day of delay from the above stipulated completion date (Section A, Paragraph 3) or as modified by a properly executed Change Order until such work is satisfactorily completed and accepted by the Owner and Grantee.

D. GENERAL PROVISIONS:

1. The Contractor agrees to perform all contract work as specified, and the Owner agrees that neither he nor the members of his family, his tenants, agents, or employees will hinder the Contractor or his work.
2. The Contractor shall take affirmative steps to ensure that applicants for employment are not discriminated against in any manner prescribed by the Regulatory Requirements of this contract during employment. Employment activities shall include, but not be limited to employment, upgrading, demotion, or transfer; termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
3. The Contractor shall post in conspicuous places, for employees and applicants for employment, notices setting forth the provisions, as stated, of this non-discrimination clause contained within the contract's Regulatory Requirements.
4. The Contractor shall incorporate the foregoing requirements in all subcontracts.
5. In the event of any breach of this contract by the Contractor, the Owner and the Grantee may, at their option, engage the services of another contractor to complete the work and deduct the cost of such completion from any amount due Contractor.
6. This contract embodies all of the representations, rights, duties, and obligations of the parties hereto, and any prior oral or written agreement not embodied herein shall not be binding upon or endure to the benefit of any of the parties.

This contract and all terms and conditions contained herein are approved and accepted as of the date first above written.

(Seal) _____
Attest: _____

(Secretary)

(Witness)

By _____

(Owner)

(Title)

(Seal) _____
Attest: _____

(Secretary)

(Witness)

By _____

(Contractor)

(Title)

(Please Print Name of Owner/Contractor)

Company DUNS Number

Individual/Company Tax ID Number

Attachment 9E-1
Sample Bid Package/Contract Documents
Bonding and Insurance Requirements

1.1 This section defines **ACEDP grant requirements for bonding and insurance**. No other bonding and insurance requirements, unless specified by State law, shall be imposed.

2.1 Entities receiving Federal assistance which involves contracting for construction or facility improvements shall follow State law relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding \$100,000. **For contracts exceeding \$100,000, the following minimum bonding requirements shall apply:**

2.1.1 A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "**bid guarantee**" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

2.1.2 A "**performance bond**" furnished by the contractor in an amount at least equal to 100 percent of the contract price as security for faithful performance of the contract.

2.1.3 A "**payment bond**" in an amount not less than 100 percent of the contract price or in a penal sum not less than that prescribed by State law, to assure contractor payment of all persons performing labor on the project under this contract and/or furnishing materials and supplies during the execution of this contract.

The performance bond and the payment bond may be in one or in separate instruments in accordance with State law.

3.1 Where bonds are required as per section 2.1 above, the bonds shall be obtained from **acceptable companies** holding certificates of authority within the State of Arkansas.

4.1 **Additional or Substitute Bond If**, at any time, the Owner, for justifiable cause, shall be dissatisfied with any surety or sureties, then upon the Performance or Payment Bonds, the contractor shall within five (5) days after notice of dissatisfaction, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond(s) shall be paid by the contractor. No further payments shall be deemed due nor made until the new surety or a surety acceptable bond(s) to the Owner.

5.1 **Insurance** the Contractor shall not commence work under this contract until he has obtained all insurance, as approved by the Owner, required under this paragraph, nor shall the Contractor allow any subcontractor to commence work on his subcontract until the subcontractor's required insurance has been obtained and approved.

- 5.1.1 **Compensation Insurance:** The Contractor shall procure and maintain throughout this contract Workmen's Compensation Insurance as required by applicable State law for all of his employees engaged in work at the site of the project under this contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees engaged in such work unless such employees are covered by the protection afforded by the contractor's Workman's Compensation Insurance. In case any class of employees engaged in hazardous work under this contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of his employees as are not otherwise protected.
- 5.1.2 **Contractor's Public Liability and Property Damage and Vehicle Liability Insurance:** The contractor shall procure and shall maintain during the life of this contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in amounts specified in the contract conditions.
- 5.1.3 **Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance:** The Contractor shall either (1) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplementary Contract Conditions or, (2) obtain policy insurance on such activities as specified in subparagraph 5.1.2 above.
- 5.1.4 **Scope of Insurance and Special Hazards:** The insurance required under subparagraphs 5.1.2 and 5.1.3 above shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards, if specified, which may be encountered in the performance of this contract.
- 5.1.5 **Risk Insurance:** The Owner or Contractor may be required to maintain Risk Insurance on a 100 percent completed value based on the insurable portion of the project (until accepted by the Owner as substantially complete) for the benefit of the Owner, the Contractor, or subcontractors as their interests may appear. Any requirements pertaining to adequacy of Risk Insurance shall be as per State law.
- 5.1.6 **Proof of Carriage of Insurance:** The contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be

canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

Attachment 9E-2
Sample Bid Package/Contract Documents
Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____
_____ as Principal,
and _____ as Surety,
are hereby held and firmly bound unto _____, as Owner,
in the penal sum of _____
for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves,
our heirs, executors, administrators, successors and assigns.
Signed, this _____ day of _____, 199__.

The condition of the above obligation is such that whereas the Principal has submitted to
_____ a certain Bid, attached hereto and hereby made a part
hereof to enter into a contract in writing, for the _____

NOW, THEREFORE.

- (A) If said Bid shall be rejected, or in the alternate,
- (B) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract specified (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Surety

Surety's Agent

Principal

SEAL

Note: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) as authorized to transact business in Arkansas and have underwriting authority in an amount equal to or greater than the bid amount.

Attachment 9E-3
Sample Bid Package/Contract Documents
Arkansas Statutory Payment and Performance Bond

We _____, as Principal, hereinafter called Principal, and _____ authorized to do business in the State of Arkansas, as Surety, hereinafter called Surety, are held and firmly bound unto _____ as Obligee, hereinafter called Owner, in the amount of _____ Dollars (\$ _____), for the payment whereof Principal and Surety bind themselves, their heirs, personal representatives, successors and assigns, jointly and severally, by these presents.

Principal has by written agreement dated _____ entered into a contract with Owner for

which contract is by reference made a part hereof and hereinafter referred to as the Contract.

THE CONDITION OF THIS OBLIGATION is such that if the Principal shall faithfully perform the Contract on his part and shall fully indemnify and save harmless the Owner from all cost and damage which he may suffer by reason of failure to do so and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default, and further, that if the Principal shall pay all persons all indebtedness for labor or materials furnished or performed under said Contract, failing which such persons shall have a direct right of action against the Principal and Surety, jointly and severally, under this obligation, subject to the Owner's priority, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

No suit, action or proceeding shall be brought on this bond outside the State of Arkansas. No suit, action or proceeding shall be brought on this bond except by the Owner after six months from the date final payment is made on the Contract, nor shall any suit, action or proceeding be brought by the Owner after two years from the date on which the final payment under the Contract falls due.

Any alterations which may be made in the terms of the Contract, or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the Contract, or any other forbearance on the part of either the Owner or the Principal to the other shall not in any way release the Principal and the Surety or Sureties, or either or any of them, their heirs, personal

representatives, successors or assigns from their liability hereunder, notice to the Surety or Sureties of any such alteration, extension or forbearance being hereby waived.

In no event shall the aggregate liability of the Surety exceed the sum set out herein.

Executed on this _____ day of _____, 19__

Principal

Surety Agent

Attorney-in-Fact

Attachment 9E-4
Sample Bid Package/Contract Documents
Certificate of Owner's Attorney

I, the undersigned, _____, the duly authorized
and acting legal representative of _____
do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Attorney signature

Date

Attachment 9E-5
Sample Bid Package/Contract Documents
General Conditions of the Contract

1.1 DEFINITIONS

1.1.1 Contract and Contract Documents

The project to be constructed pursuant to this contract will be financed with assistance from Community Development Block Grant funds and is subject to all applicable Department of Housing and Urban Development (HUD), State and Federal laws.

The plans, specifications, contract documents and any addenda shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were incorporated verbatim. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or infer interpretation of the provisions to which they refer.

1.2 EXECUTION

1.2.1 Six copies of the Contract Documents shall be signed by the owner and contractor.

1.2.2 Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 CONTRACT AUTHORIZATION

1.3.1. All original Drawings and Specifications will remain in the ownership of the architect or engineer. Notice and description of any changes to the original documents or scope of work by the Contractor shall be communicated to the architect/engineer prior to completion of the affected work.

1.3.2 The Owner and architect/engineer shall have access to the construction site at all times and shall make site visits as necessary to verify project progress.

1.3.3 The architect/engineer shall make, or have made, determinations that the work for each payment request is or is not complete and meets the requirements of the contract documents. The request for payment process shall be defined at the Preconstruction Conference.

- 1.3.4 The architect/engineer shall have the authority to request corrections to deficient work by notifying the contractor in writing.
- 1.3.5 The Contractor shall meet the requirements of all State, Federal and local laws including, but not limited to those listed in these contract documents as **Regulatory Requirements**.
- 1.3.6 The architect/engineer shall give all orders and directions under this contract, relative to execution of work including the amount, quality, acceptability, and fitness of the work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to work and the construction thereof. The architect's or engineer's decisions shall be final and conclusive, except as State law may otherwise prescribe. Any differences or conflicts in regard to the contract documents that may arise between the contractor performing work for the architect/engineer shall be adjusted and determined by the architect/owner after consultation with the contractor.
- 1.3.7 All work and materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Owner, engineer or architect or representative(s) thereof, who shall adjudge the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet their approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the architect/engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the contract documents, the compensation to be paid to the contractor shall be reduced by such amount adjudged by the architect/engineer as equitable.
- 1.3.8 No claim for extra work or cost shall be allowed unless authorized by change order executed by the engineer/architect and approved by the Owner and the Arkansas Economic Development Commission. In the event of temporary suspension of work, or during inclement weather, or whenever the engineer or architect shall direct, the Contractor will, and will cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the architect/engineer, any work or materials were damaged or injured by reason of failure on the part of the Contractor or any of his subcontractors, such materials shall be removed and replaced at contractor expense.
- 1.3.9 Should the Contractor encounter site conditions that differ from the contract documents, he shall immediately give notice to the architect/engineer before

commencing work on the affected properties. The architect/engineer will thereupon investigate, or have investigated the conditions, and if found that they materially differ from those shown in the contract documents, will request changes as deemed necessary. Any increase or decrease of cost resulting from such changes shall be adjusted as per the General Conditions.

2.1 DEFINITIONS

The following terms as used in this contract are respectively defined as follows:

- 2.1.1 **Contractor:** A person, firm or corporation with whom the owner contracts with.
- 2.1.2 **Subcontractor:** A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the contractor.
- 2.1.3 **Work on (at) the project:** Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the contractor and any subcontractor.

3.1 CONTRACTOR'S RESPONSIBILITIES

- 3.1.1 The Contractor shall and will, in good workmanlike manner, complete and perform all work and furnish all supplies, materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary to perform and complete all the work required by this contract. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the contract documents, and complete the entire work to the satisfaction of the engineer/architect and Owner.

It is understood that unless otherwise specifically stated in the contract documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every kind, and all other services and facilities of every kind whatsoever necessary to execute, complete, and deliver the complete project within the specified time. Any work necessary to be performed after regular working hours, on Sundays or holidays, shall be performed without additional Owner expense.

- 3.1.2 The Contractor shall at all times safe guard the Owner's property from injury or loss in connection with this contract. He shall at all times safe guard and protect his own work, and that of adjacent property from damage. In case of emergency

which threatens loss or injury of property, and/or safety or life, the Contractor will be allowed to act, without previous instructions from the architect/engineer, in a diligent manner. He shall notify the engineer/architect of actions immediately thereafter. Any claim for compensation by the Contractor due to such extra work may be submitted to the architect/engineer for approval and Owner for consideration. Where the Contractor has not taken action but has notified the architect/engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the architect/engineer.

The amount of reimbursement to the Contractor on account of any emergency action shall be determined in the manner provided in the general conditions.

3.2 **CONTRACTOR REQUIREMENTS**

The Contractor shall:

- 3.2.1 Take every precaution against injuries to persons or damage to property;
- 3.2.2 Store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work or elsewhere as will not unduly interfere with the progress of his work or the work of any other contractors;
- 3.2.3 Clean up frequently all refuse, scrap materials, etc., caused by operations, to the end that at all times the site of the work shall be neat, orderly and workmanlike;
- 3.2.4 Before final payment, remove all surplus material, temporary structures, equipment and debris of every nature resulting from his operations, and to put the site in an orderly condition;
- 3.2.5 Effect all cutting, fitting or patching of his work to conform to the contract documents.
- 3.2.6 No materials or supplies for the work shall be purchased by the contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.
- 3.2.7 The Contractor shall not assign the whole or any part of this contract or any moneys due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any moneys due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to

any moneys due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this contract.

3.2.8 If, through Contractor neglect, any other contractor or subcontractor suffers loss or damage on the work, the Contractor agrees to settle with such other parties by agreement or arbitration if such parties will so settle. If such other contractors or subcontractors shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the contractor, who shall indemnify and save harmless the Owner against any such claim.

3.2.9 Neither the final certificate of payment nor any provision in the contract documents shall constitute an acceptance of work not completed in accordance with the contract documents or relieve the contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

3.3 SUBCONTRACTOR'S RESPONSIBILITIES

3.3.1 The Contractor may hire specialty subcontractors to complete work which, under normal contracting practices, is performed by specialty subcontractors, however, the contractor shall be fully responsible to the Owner for the acts or omissions of his subcontractors, and of persons either directly or indirectly employed by him.

3.3.2 The Contractor shall coordinate his operations with those of other contractors in the arrangement for storage of materials and in the detailed execution of the work. The Contractor, including his subcontractors, shall keep informed of the progress and the detail work of other contractors and shall notify the Owner immediately of lack of progress or defective workmanship on the part of other contractors. Failure of a contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory.

3.4 PATENTS

The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner,

unless otherwise specifically stipulated in the Contract Documents. License and/or Royalty Fees for the use of a process which is authorized by the Owner must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the contractor.

If the Contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the holder of such patented or copyrighted design, device or materials. It is mutually understood that, without exception, the contract price shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

3.5 SUPERINTENDENCE

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor.

3.6 CONFLICTING CONDITIONS

Any provisions in any of the contract documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

3.7 ARKANSAS ECONOMIC DEVELOPMENT COMMISSION INSPECTION

Authorized representatives of the Arkansas Economic Development Commission shall be permitted to inspect all work, materials, personnel records, invoices of materials, and other data and records of the Contractor and his subcontractor(s).

3.8 PAYMENT PROVISIONS

3.8.1 To ensure the proper performance of this contract, the Owner shall retain ten percent (10 percent) of the amount of each estimate until the project is 50 percent complete if more than one payment is to be made. Final retainage shall be released upon acceptance of the Certificate of Substantial Completion.

- 3.8.2 If multiple pay estimates are to be prepared, materials stored on the site and preparatory work completed may be included.
- 3.8.3 The Contractor agrees to indemnify and hold the Owner harmless from all claims arising from the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies incurred in the performance of this contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the above nature have been paid, discharged, or waived. If the Contractor fails to do so, then the Owner may, after having served written notice to the Contractor, pay unpaid bills (of which the owner has written notice), and direct, or withhold from the Contractor's unpaid compensation, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract. In no event shall the above sentence impose any obligations upon the Owner to the Contractor or his surety. In paying any unpaid bills of the contractor, the Owner shall be deemed the Contractor's agent, and any such payments made by the Owner shall be considered as payment made under the contract to the Contractor and the Owner will not be liable to the Contractor for any such payments.
- 3.8.4 After execution and delivery of the contract prior to making the first partial payment, the Contractor shall deliver to the owner an estimated construction progress schedule in a form satisfactory to the owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract documents and the anticipated amount of each monthly payment that will become due in accordance with the progress schedule. The Contractor shall furnish on forms supplied by the Owner a detailed estimate giving a complete breakdown of the contract price and periodic itemized estimates of work completed for the purpose of making partial payments thereon. The costs employed in maintaining these schedules will be used only to determine the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.
- 3.8.5 The Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of his contract.

4.1 **CHANGES IN WORK**

No changes in the work defined within the contract documents shall be made without a change order. Charges or credits for the work covered by the change order shall be determined by one or more, or a combination of the following:

- Unit bid prices previously approved
- An agreed upon lump sum
 - The actual cost of labor, including foremen
 - Materials entering permanently into the work.
 - The ownership or rental cost of construction plant and equipment during the time of use on the extra work
- Power and consumable supplies for the operation of power equipment
- Insurance, Social Security and unemployment contributions

4.2 **ADDITIONAL INSTRUCTIONS AND DRAWINGS**

If necessary, the Contractor will be furnished additional instructions and drawings to execute contract work. These additional drawings and instructions will be prepared so that they can be generally interpreted as part of the contract documents thereof. Any additional instructions or drawings will be issued to and discussed by all parties and shall be carried out by the Contractor as specified.

4.3 **CONTRACTOR AND OWNER**

4.3.1 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion, as specified in the contract, of the work to be completed hereunder, are Essential Conditions of this contract; and it is further mutually understood and agreed that the work to be completed in this contract shall be started on a date to be specified in the Notice to Proceed.

If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension of time granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the contractor shall be in default after the time stipulated in the contract for completing the work.

Provided, that the Contractor shall not be charged with liquidated damages or any excess cost where the Owner determines that the contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; **Provided further**, that the contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to

- (a) Any preference, priority or allocation order duly issued by the Government;
- (b) Unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and documented severe weather; and,
- (c) Any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article;

Provided further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the contractor within a reasonable time of its decision in the matter.

4.3.2 Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable determination to be set forth in writing.

4.3.3 Any notice to any contractor from the Owner relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said contractor at his last given address, or delivered in person to the said contractor or his authorized representative on the work.

5.1 **OWNER**

5.1.1 The Owner is the entity identified in the Owner-Contractor Agreement and is referred to as such in the contract documents. The term Owner means the Owner or his authorized representative.

1.2 Prior to the start of construction, the Owner shall obtain all land and rights-of-way necessary for carrying out and completion of work to be performed under this contract. The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

- 5.1.3 Unless otherwise expressly provided for in the contract documents, the Owner will furnish to the contractor all surveys necessary for the execution of the work.
- 5.1.4 No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any contracts or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, attorney, or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other pertinent contract.
- 5.1.5 Should any provisions of this contract be violated by the Contractor, or any of his subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate the contract. Such notices shall contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation, or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account at the expense of the Contractor, and the Contractor and his Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.
- 5.1.6 The Owner shall meet the requirements of all State, Federal and local laws including but not limited to those listed in these contract documents as Regulatory Requirements.

6.1 SAFETY STANDARDS AND ACCIDENT PREVENTION

With respect to all work performed under this contract, the Contractor shall

- 6.1.1 Comply with the safety standards provisions of applicable laws, building and construction codes and the Manual of Accident Prevention in Construction: published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act (OSHA) of 1970 (Public Law 91-596) and the requirements of Title 29 of the Code of Federal Regulations, Section 1518, as published in the Federal Register, Volume 36, Number 75, Saturday, April 17, 1971, and specifically, OSHA's Standard for Excavation and Trenches Safety System, 29 CFR Part 1926, Subpart P.
- 6.1.2 Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.
- 6.1.3 Maintain, at his office or other conspicuous place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site.

7.1 MISCELLANEOUS PROVISIONS

- 7.1.1 The architect/engineer shall review all submittals to include but not be limited to samples, shop drawings and product data. The architect/engineer shall provide the Contractor with approved or rejected submittals within ten days of their receipt. The Contractor shall retain one copy in his construction files at all times and provide one copy to the resident project representative. Upon completion of the contract, the Contractor shall provide the complete submittal file to the Owner who will retain them in the permanent construction file. Upon receiving a rejected submittal, the Contractor shall resubmit an alternate or provide what was originally specified.
- 7.1.2 The Contractor shall insert in any subcontracts the Federal Labor Standards Provisions Contained herein (See Regulatory Requirements) and such other clauses as the Arkansas Economic Development Commission may deem necessary, and also, a clause requiring subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

Attachment 9E-6
Sample Bid Package/Contract Documents
Supplemental Conditions

The Contractor may agree to the use and occupancy of a portion or unit of the project before formal acceptance by the owner provided that the owner secures written consent of the Contractor, except in the event, in the opinion of the architect/engineer, the Contractor is chargeable with unwarranted delay in final cleanup of punch list items or other contract requirements. Also, an endorsement of the insurance-carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction must be secured.

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the owner (in accordance with State procurement requirements) who will pay for all such services direct and exclusive to this contract. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

The Subparagraphs below are applicable to Projects Requiring Trenching

A separate lump sum bid item must be included for Excavation/Trench Safety System (for excavation in excess of five feet). The bidder is required to complete this pay item in accordance with Act 291 of the Arkansas 79th General Assembly.

In the event a bidder fails to complete this pay item, the Owner shall declare that the bid fails to comply fully with the provisions of the contract documents and will be considered invalid as a nonresponsive bid. Payment for the lump sum bid item for Excavation/Trench Safety System will be paid at the completion of the contract. No partial payments will be allowed.

SPECIAL HAZARDS

The Contractor's and his subcontractors' Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

Contractor's and Subcontractor's Public Liability, Vehicle Liability and Property Damage Insurance. As required in the General Conditions, the Contractor's Public Liability Insurance and Vehicle Liability Insurance shall be in an amount not less than \$_____ for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$ _____ on account of one accident, and Contractor's Property Damage Insurance in an amount not less than \$ _____.

The Contractor shall either require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage of the type and in the same amounts as specified in the preceding paragraph, or insure the activities of his subcontractors in his own policy.

The contract documents shall consist of all specifications, plans, contract documents and addenda for the project.

SUPPLEMENTARY CONTRACT CONDITIONS

Any supplementary conditions of the contract must be inserted below:

1.1 INTEREST OF MEMBER OR DELEGATE TO CONGRESS

No member of or Delegate to Congress, or Resident Commissioner, shall be a party to or benefit from this contract, except that provisions of this clause shall not extend to situations where the contract accrues to a corporation for its general benefit.

1.2 EQUAL EMPLOYMENT OPPORTUNITY

1.2.1 During the performance of this contract the contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, sex, color, handicap, veteran status or national origin. The Contractor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, religion, sex, color, handicap, veteran status or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms or compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

1.2.2 The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, religion, sex, color, handicap, veteran status or national origin.

1.2.3 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965 (EO 11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

1.2.4 The Contractor will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.

Attachment 9E-7
Sample Bid Package/Contract Documents
Regulatory Requirements

- 1.2.5 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts.
- 1.2.6 The Contractor will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as Arkansas Economic Development Commission and HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the Contractor may request the United States to enter into such litigation to protect its interests.

1.3 EMPLOYMENT PRACTICES

The Contractor shall

- 1.3.1 To the greatest extent practicable, follow hiring and employment practices for work on the project which will provide new job opportunities for the unemployed and underemployed (Section 3 requirements).
- 1.3.2 Insert or cause to be inserted the same provisions in each construction subcontract.

2.1 SPECIAL EQUAL OPPORTUNITY PROVISIONS

- 2.1.1 Activities and Contracts Not Subject to EO 11246, as Amended**
(Applicable to Federally-assisted construction contracts and related subcontracts *under \$10,000*)

During the performance of this contract, the Contractor agrees to incorporate the following requirements into all subcontracts:

The Contractor shall not discriminate against any employee or applicant for employment because of age, race, religion, sex, color, handicap, veteran status or national origin. The contractor shall take affirmative steps to ensure that applicants for employment are employed, and that

employees are treated during employment, with regard to their age, race, religion, sex, color, handicap, veteran status or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.1.1.2 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided, setting forth the provision of this nondiscrimination clause. The notice shall state that all qualified applicants will receive consideration for employment without regard to age, race, religion, sex, color, handicap, veteran status or national origin.

2.2.1 **Contracts Subject to EO 11246, as Amended**_(Applicable to Federally-assisted construction contracts and related subcontracts *exceeding \$10,000*) during the performance of this contract, the contractor agrees as follows:

2.2.1.1 The Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, sex, color, handicap, veteran status or national origin. The Contractor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, religion, sex, color, handicap, veteran status or national origin, Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this clause.

2.2.1.2 The Contractor will in all solicitations or advertisements for employees placed by or on his behalf, state that all qualified applicants will receive consideration for employment without regard to age, race, religion, sex, color, handicap, veteran status or national origin.

2.2.1.3 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice

in conspicuous places available to employees and applicants for employment.

2.2.1.4 The Contractor will comply with all provisions of EO 11246, and of the rules, regulations and relevant orders of the Secretary of Labor.

2.2.1.5 The Contractor will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Arkansas Economic Development Commission, HUD, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

2.2.1.6 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract, or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts.

2.2.1.7 The Contractor will include all provisions of the seven paragraphs immediately above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Division may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Division, the contractor may request the United States to enter into such litigation to protect its interests.

3.1 **"SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES:**

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

3.1.1.1 The Contractor agrees to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 USC 170 (u), as amended, the HUD regulations issued pursuant thereto at 24 CFR 135, and any applicable rules and orders of HUD issued thereunder.

3.1.1.2 The "Section 3 clause" set forth in 24 CFR 135.20 (b) shall form part of this contract, as set forth in the General Conditions.

3.1.1.3 Contractors shall incorporate the "Section 3 clause" shown below and the foregoing requirements in all subcontracts.

Section 3 Clause as Set Forth in 24 CFR 135.20(b)

The work to be performed under this contract is on a project funded with Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170(u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment will be given to lower income residents of the project area and, contracts for work in connection with the project be awarded to business concerns which are located in or substantially owned by persons residing in the project area.

The parties to this contract will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of the Division issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

The Contractor will send to each labor organization or workers' representative with which he has a collective bargaining agreement or other contract or understanding, a notice advising them of his commitments under Section 3 and will post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by HUD, 24 CFR 135. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in

violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with Section 3 provisions, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Division issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

4.1 ACCESS TO RECORDS/MAINTENANCE OF RECORDS

The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the contract and such other records as may be deemed necessary by the locality to assure proper accounting for all funds. These records will be available for audit purposes to the locality or the State or any other authorized representative, and will be retained for three years after contract completion. Moreover, the locality, State, or any authorized representative shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

5.1 CONFLICT OF INTEREST OF OFFICERS/EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

6.1 SECTION 503 OF THE REHABILITATION ACT OF 1973 (IF \$2,500 OR OVER)

- 6.1.1 The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative steps to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 6.1.2 The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 6.1.3 In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 6.1.4 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices stating the Contractor's obligation under the law to take affirmative steps to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- 6.1.5 The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative steps to employ and advance in employment physically and mentally handicapped individuals.
- 6.1.6 The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7.1 **SECTION 402 VETERANS READJUSTMENT ASSISTANCE ACT OF 1973
(IF \$10,000 OR OVER)**

7.1.1 **Affirmative Steps for Disabled Veterans and Veterans of the Vietnam Era**

7.1.1.1 The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative steps to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veteran status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, and selection for training, including apprenticeship.

7.1.1.2 The contractor agrees that all suitable employment openings which exist at the time the contract is executed and those which occur during the performance of this contract (including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates) shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide reports to local offices regarding employment openings and hires as may be requested.

7.1.1.3 State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.

7.1.1.4 Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or selection from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

- 7.1.1.5 The reports required in regard to this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office, or where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made of this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representative of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.
- 7.1.1.6 Whenever the contractor is subject to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is subject to these provisions and has so advised the State system, there is no need to advise them of subsequent contracts. The contractor may inform the State system when it is no longer bound by this contract clause.
- 7.1.1.7 This clause does not apply to the listing of employment openings occurring and filled outside the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
- 7.1.1.8 The provisions of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union firing arrangement. This exclusion does not apply to a particular opening since an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
- 7.1.1.9 The phrase "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories; production and nonproduction; plans and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive administrative and professional openings compensated

on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of the institution. Under the most compelling circumstances, an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

- 7.1.1.10 "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment openings are to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
- 7.1.1.11 "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.
- 7.1.1.12 "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representative of his employees.
- 7.1.1.13 The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 7.1.1.14 In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 7.1.1.15 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be

prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative steps to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

7.1.1.16 The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative steps to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.

7.1.1.17 The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

8.1 **SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

8.1.1 No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

8.1.2 Whenever the Secretary of HUD determines that a State or unit of general local government which is a recipient of assistance under this title has failed to comply with subsection 8.1.1 or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 111 (a) of this Act; or (4) take such other action as may be provided by law.

8.1.3 When a matter is referred to the Attorney General pursuant to above, or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States court for such relief as may be appropriate, including injunctive relief.

9.1 **CIVIL RIGHTS ACT OF 1964**

9.1.1 Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Subsequent civil rights legislation has extended nondiscrimination to classes based on age and handicap.

10.1 **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**

(Applicable to Federally-assisted construction contracts and related subcontracts *exceeding \$100,000*)

10.1.1 During the performance of this contract, the Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42, USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended.

10.1.2 In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

A stipulation that as a condition of contract award, prompt notice will be given of any notice received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in 10.1.2.1 to 10.1.2.4 of this section in every subcontract and requiring that the contractor take enforcement action as the Government

11.1 **HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION**

11.1.2 **Use of Explosives**

11.1.2.1 When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, State and Federal laws in purchasing and handling explosives and take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material covered with suitable timber, steel or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property.

11.1.3 **Danger Signals and Safety Devices (Modify as Required)**

11.1.3.1 The Contractor shall take all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

12.1 **Or Equal Clause:**

Whenever a material, article or piece of equipment is identified on the plans or specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, meets State plumbing requirements as equal in substance or structure.

Attachment 9E-8
Example Bid Package/Contract Documents
Technical Specifications of the Contract

Any technical specification of the contract, so desired by the Owner, in addition to the preceding specified contract documents shall be entered below.

Attachment 9E-9
Sample Bid Package/Contract Documents
Certification of Bidder Regarding Equal Employment Opportunity

This certification is required pursuant to Executive Order 11246 (30 FR 12319-25) which provides that any bidder or prospective contractor or any of their proposed subcontractors, shall state as an initial part of the bid whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and if so, whether it has filed all compliance reports due under applicable instructions. Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

Certification by Bidder
Name and Address of Bidder (Including Zip Code)

<i>Name and title of Bidder's agent</i>

1. Has the bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause?
Yes No

2. Were compliance reports were required to be filed in connection with such contract or subcontract?
Yes No

3. Has the bidder has filed all compliance reports due under applicable instructions?
Yes No N/A

4. Has the bidder ever been or is being considered for sanction due to violation of Executive Order 11246, as amended?
Yes No

SIGNATURE AND TITLE OF BIDDER'S AGENT	
_____	_____
<i>SIGNATURE</i>	<i>DATE</i>

Attachment 9E-10
Sample Bid Package/Contract Documents
Contractor Section 3 Certification

_____ (*Name of Contractor*) agrees to implement the following specific affirmative steps directed at increasing the utilization of lower income residents and businesses within the City or County of _____.

- | | |
|----|--|
| A. | To implement Section 3 requirements by seeking the assistance of local officials in determining the exact boundaries of the applicable project area. |
| B. | To attempt to recruit from within the City/County the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area. |
| C. | To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists. |
| D. | To insert this Section 3 plan in all bid documents, and to require all bidders to submit a Section 3 affirmative action plan (when contracts exceed \$10,000) including utilization goals and the specific steps planned to accomplish these goals. |
| E. | To formally contact unions, subcontractors, and trade associations to secure their cooperation for this project. |
| F. | To ensure that all appropriate project area business concerns are notified of pending subcontractual opportunities. |
| G. | To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken. |
| H. | To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan. |
| I. | To list on the Estimated Project Workforce Breakdown form, all projected workforce needs for this project by job classification. |

As officers and representatives of _____
(*Name of Contractor*)

We, the undersigned, have read and fully agree to the above and become a party to the full implementation of this program.

Title *Date*

Signature

Attachment 9E-11
Sample Bid Package/Contract Documents
Estimated Project Workforce Breakdown

Job category	Total estimated positions	No. of positions currently occupied by permanent employees	No. of vacant positions	No. of positions to be filled with LIPAR (Note 1)
Officers/Supervisors				
Professionals				
Technicians				
Office				
Clerical				
Trade				
Journeyman				
Apprentices				
Trainees				
Others				
Total				

** Note 1: Lower Income Project Area Residents: Individuals residing within the City/County of _____ whose family income does not exceed 80 percent of the median income in the area.*

_____ Company

Form 123
Attachment 9E-12
DISCLOSURE REQUIRED BY EXECUTIVE ORDER 98-04

Contracts and Grants

Any contract or amendment to a contract or any grant executed by an agency which exceeds \$25,000 shall require the contractor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto.

Any individual contracting with the State of Arkansas shall disclose if he or she is a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or the spouse or immediate family of any of the persons as described herein.

Any entity contracting with the State of Arkansas shall disclose

- (a) any position of control, or
- (b) any ownership interest of 10% or greater

that is held by a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or the spouse or immediate family of any of the persons as described herein.

Disclosure by Sub-contractor or Assignee

Any sub-contractor or assignee (hereinafter "Third Party") shall disclose whether such Third Party is a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or the spouse or immediate family member of any of the persons as described herein, or if any of the persons here described in this sentence hold any position of control or ownership interest of 10% or greater in the Third Party. This disclosure requirement shall apply during the entire term of the contract or grant, without regard to whether the subcontract or assignment is entered into prior or subsequent to the date of contract or grant.

Failure to Disclose and Violations

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the state agency under the provision of existing law.

Please check all that apply if you are a current or former:

_____ Member of the General Assembly of the State of Arkansas

_____ Constitutional Officer of the State of Arkansas

_____ Member of a Board or Commission of the State of Arkansas

_____ State Employee

_____ Spouse of a current or former member of the general assembly, constitutional officer, board or commission member, or state employee.

_____ I am a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or spouse or immediate member of these persons as described, and I hold a position of control in the contracting entity or grantee of this application.

_____ I am a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or spouse or immediate member of these persons as described, and I hold a 10% or higher interest in the contracting entity or grantee of this application.

I hereby acknowledge that failure to disclose the information as required by Executive Order 98-04 shall constitute a material breach of any future agreement, resulting from this application, with the State of Arkansas or any state agency acting on its behalf.

I also acknowledge that any individual drawing a salary or performing personal services for an agency must disclose any direct or indirect benefit he or she may receive as a result of any State contract with an entity in which he or she has a financial interest. I understand that failure to report this information may subject me to criminal sanctions, as provided in Ark. Code Ann. §19-11-702.

Name

Date