



## **GENERAL CONTRACTOR CERTIFICATION AND QUESTIONNAIRE**

All General Contractors that are involved with DSHA financed projects and/or receiving Low Income Housing Tax Credits (LIHTC) must be approved by DSHA. In order to be approved by DSHA, a General Contractor must complete the DSHA Contractor's Certification and Questionnaire process, provide requested information on all the required attachments, and be approved by DSHA thirty (30) days prior to invitation to bid or DSHA's application deadline (whichever is earlier). General Contractors must submit all required information to DSHA for approval on an annual basis. After DSHA has approved the General Contractor, the firm will be placed on the LIHTC Approved General Contractor List.

**NOTE:** All members of the Development Team, including the General Contractor must comply with DSHA's Draw Requisition and Cost Certification Guide. The guide can be found at the following link: [http://destatehousing.com/Developers/developermidia/cost\\_cert\\_guide.pdf](http://destatehousing.com/Developers/developermidia/cost_cert_guide.pdf)

### **A. Bidding Protocol/Requirements**

- a. The Developer/Owner of the development may determine the General Contractor at application and shall disclose the General Contractor as part of the Development Team or the Developer/Owner may opt to competitively bid the work after application and award. Regardless, the contractor will be subject to the following requirements: The General Contractor will agree to a maximum of 7% General Requirements of construction hard costs for new construction and rehabilitation projects, including all change orders. DSHA may allow an increase in general requirements for projects with thirty-two (32) units or less. This request must be made at application and final determination will be made at DSHA's sole discretion.
- b. The General Contractor will agree to a maximum of 7% Builders Overhead and Profit of construction hard costs and General Requirements for new construction and rehabilitation projects, including all change orders.
- c. There will be no increase to the Overhead and Profit or General Requirements other than what is approved by change orders during the course of the project. There will be no change orders approved solely to increase Overhead and Profit or General Requirements. At project completion, the Overhead and Profit and General Requirements percentages may not exceed the percentages submitted at application or approved at construction closing (whichever is less), but may be less than the approved percentages.
- d. DSHA shall review and approve plans and specifications for construction work prior to release for bidding.

- e. If the Developer, Development Team, and/or Applicant have related party and/or identity of interest (“IOI”) subcontractor firms, they may not bid on the construction work or perform work on the development unless such arrangement has been reviewed and approved by DSHA at their sole discretion. The General Contractor may be required to obtain three competitive bids for the identity of interest work and cannot charge any more than the lowest bid.
- f. If the General Contractor directly employs a trade, the General Contractor may self-perform the work (i.e. if the General Contractor directly employs a licensed plumber, the GC may self-perform plumbing trades on the job). The General Contractor may also self-perform other non-licensed trade line items; however, the General Contractor may be required to obtain three competitive bids in all cases and cannot charge any more than the lowest bid.
- g. The General Contractor must provide fully executed subcontractor contracts/agreements for **all** subcontractors (including IOI subcontractors) before any work is commenced prior to any payments being made to the subcontractor.
- h. The Developer/Owner may not pre-bid certain aspects of the work and require the General Contractor to use those subcontractors, unless reviewed and approved by DSHA at their sole discretion.
- i. If the General Contractor is not part of the Development team at application, they must be chosen through a competitive bid process after an award of credits or approval of DSHA financing, and the following additional conditions will apply:
  - a. Developer/Owners shall invite all firms on DSHA’s LIHTC Approved General Contractor List to bid and obtain a minimum of three (3) bids from the approved list of General Contractors that will provide bid estimates for the proposed projects;
  - b. No additional bidder requirements may be added without written approval from DSHA, which may be withheld in their sole discretion (examples include, but are not limited to, additional payment and performance bond requirements, letter of credit for contractors, unrealistic timing demands, construction schedule, liquidated damage requirements, etc.). DSHA shall review and provide written approval of bid documents prior to release for bidding;
  - c. The bids shall be sent to the architect of record in a sealed envelope, clearly marked with the project name and date stamped. Faxed or e-mailed bids shall not be accepted. The bids shall be privately opened, tallied, and the results forwarded to DSHA and Developer;

**NOTE:** For any funding sources that require bidding of the construction costs (i.e. USDA, HUD), the bidding requirements of those funding source will control.

The information attached is requested in connection with the projected financing of proposed Housing Developments/HOME or LIHTC applications which may or may not be constructed or rehabilitated with DSHA financial sources. DSHA is required to exercise due diligence in ascertaining the accuracy and completeness of information which is material in the underwriting of the proposed financing which includes certification of the General Contractor.

The information which is to be provided by you in this questionnaire is subject to the Freedom of Information Act, unless otherwise deemed proprietary. Accordingly, DSHA requests that the questions on the attached be answered accurately and completely and all required information is submitted so that DSHA can make an assessment for approved General Contractor certification. If any question is not applicable, please so state and, unless self-evident, explain why. If the answer to any question is in doubt, or if you have any questions as to what associates or affiliates are covered by this questionnaire, or whether any facts are “material”, please set forth the pertinent facts so that DSHA or our counsel may consult with you or your counsel as to appropriate disclosure, if any. Please note that the “principals” of your firm includes owners, directors and senior officers.

After DSHA has approved the General Contractor certification, the General Contractor will be placed on a list of approved General Contractors. Developers will then choose between the two bidding options above for the General Contractor to arrive at construction costs for the development. DSHA must review/approve bid documents prior to release for bidding.

If a joint venture is proposed, an agreement must be submitted to DSHA, 45 days prior to invitation, outlining the current and long-term roles, terms, fees, and other conditions of the partners to the agreement. **Both parties must be on the LIHTC Approved General Contractor list**

If General Contractor does not successfully complete warranty items from on-going or previous projects within 45 days of inspection, the General Contractor will be ineligible to bid on future projects until such corrective actions are completed. In addition, General Contractors are not eligible if they have failed to fulfill any obligations committed to in a previous application for LIHTC that has not been corrected to DSHA’s satisfaction.

General Contractor Qualifications will be established by DSHA’s determination of:

1. Acceptable financial capacity and credit score
2. Acceptable bonding and insurance capacity for the proposed development
3. Positive references
4. Satisfactory past performance history
5. Completed General Contractor questionnaire and attachments

DSHA has the right to determine acceptable General Contractor qualifications and capacity to complete a development successfully.

**GENERAL CONTRACTOR CERTIFICATION AND QUESTIONNAIRE**

**INSTRUCTIONS:** Please answer each question fully and completely. If any question is not applicable, please so state. In addition to answering the following questions, please attach those documents set forth in Exhibit A and Appendix A. If additional space is required, please attach separate sheet(s) of paper, as necessary and identify the question number.

1. What is the full name of firm?

Is it a sole proprietorship, general partnership, limited partnership or corporation?

Under the laws of what state is it organized?

Is it registered to do business in Delaware? Yes  No

What is the firm's mailing address, and street address of its principal place of business, if that differs?

Contact

Phone:

Person:

Email

Fax:

2. When was the entity formed?

Is this entity the successor to any other entity? Yes  No

If yes, state the name of such entity or entities, and their date or dates of formation, and the reason for the termination of such entity or entities.

When did this entity actively begin construction practice?

How many persons are presently employed?

What is the construction value of work presently under contract?

2011:	_____	2014:	_____
2012:	_____	2015:	_____
2013:	_____	2016:	_____

3. Please provide information concerning the principal owners or partners of your firm as follows:

Name	Position	Years of Service

4. Provide a brief description of the general type of construction or design work in which your firm is engaged, and indicate whether your firm generally performs design/ engineering and/or production services itself or subcontractors such services.

5. How many residential housing projects have you constructed which were subject to the construction requirements of HUD, FmHA or other government-assisted or regulated agencies, or of the mortgagee?

How many conventionally financed, non-governmental assisted residential housing projects have you constructed?

6. On Appendix A (located at the end of this form) please list all major projects your firm is now involved with, and provide a brief description of the general type of work, dollar value, and projected completion date for each.

In what states are the projects listed on Appendix A located?

7. Have there been any major adverse business developments or conditions experienced in connection with the construction or operation of any of the buildings your firm has constructed attributable (in whole or in part) to your firm's construction performance? Yes  No

If yes, please describe in full.

8. Has there been in the last ten (10) years, or is there now pending or threatened, any litigation, arbitration, governmental proceeding, or regulatory proceeding involving claims in excess of \$100,000 or requesting a declaratory judgment or injunctive relief with respect to the construction or operation of any of the work which your firm or its principals, predecessors or affiliates has undertaken in which the construction performance and/or work, competency or care was or is now being questioned? Yes  No

Is there any potential claim, demand, litigation, arbitration, investigation, governmental proceeding or regulatory proceeding involving your firm or its principals, predecessors or affiliates?

Yes  No

If the answer to either of the preceding questions is "yes", please describe in full.

9. In addition to the litigation, arbitration, investigation or regulatory or governmental proceeding referred to in the preceding paragraph, is there any litigation, arbitration, investigation or governmental or regulatory proceeding now pending or threatened to which your firm is or may be a party, or is there any potential claim or demand, which might otherwise affect the capacity of your firm to perform with respect to the Housing Development, whether or not it concerns other work you have undertaken? Yes  No

If yes, please describe in full.

10. Has your firm (or its principals, predecessors, or affiliates) within the last ten (10) years been, or are you or they currently, involved in any of the following:
- a. Any action, audit or investigation brought by any federal government agency or authority or by any state or local public body, or any officer of any state on behalf of a state or local public body? Yes  No
  - b. Any criminal proceeding (excluding traffic violations and other minor offenses)?  
Yes  No
  - c. Any proceedings involving a request for a permanent or temporary injunction from an activity involving the purchase or sale of securities? Yes  No

If the answer to any of the parts of this question is “Yes”, please describe in full.

11. Has your firm, its principals, predecessors, or affiliates been the subject of any proceeding under the federal bankruptcy laws or any other proceeding under state or federal law in which a court or government agency has assumed jurisdiction over any of the assets or business of your firm, its principals, predecessors or affiliates? Yes  No

If yes, please identify the proceedings, the court or governmental body and the date such jurisdiction was assumed.

12. Describe the circumstances relating to each instance in the past five (5) years, if any, in which a claim or notice of a potential claim or a request for defense costs has been made under any such insurance or under any policies previously carried by your firm, its principals, predecessors or affiliates.

13. Does your firm, or any individual connected therewith, have any relationship (business or personal) with any other party involved in any transactions related to the development of the Housing Development? Yes  No

If yes, please describe in full.

14. Please attach a copy of your last three financial statements, audited, if available or tax returns.

Have there been any material adverse changes in your financial condition from that shown in your most recent financial statement? Yes  No

If yes, please describe in full.



15. Is your firm or any individual connected therewith to receive any fee or other compensation in connection with the Housing Development other than as stated in the contract for construction?

Yes  No

If yes, please describe the circumstances.

16. Describe each instance in which change orders applied for under any contract performed by your firm in the past five (5) years in the aggregate amounted to more than five percent (5%) of the contract price, or in which actual construction costs under any such contract exceeded the contract price by more than five percent (5%) or exceeded the firm's pre-contract estimate therefore by more than the ten percent (10%).

17. Describe any instance where the work performed by your firm under any contract was not completed by any required substantial completion date (inclusive of any permitted exceptions) under the contract.

18. Are there any other matters affecting your firm or its principals, predecessors or affiliates or your performance of contracting services which might be material and relevant to DSHA?

Yes  No

If yes, please describe in full. (Any matters are “material” if a reasonable person might consider them important in considering financing for the Housing Development).

The above information and materials provided herewith have been furnished by the undersigned on behalf of the aforesaid firm. Such information is true and accurate and does not omit any information or statements required to make such information not misleading in the circumstances.

Should any change occur in any of the information supplied in answer to the foregoing questions, the undersigned agrees to promptly supply the details of such change in writing to Delaware State Housing Authority, 18 The Green, Dover, DE 19901, Attention: Development.

I/we fully understand that it is a Class A misdemeanor punishable by fine up to \$2,300 or up to one (1) year in prison, restitution, and other conditions as the court deems appropriate, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 11, Delaware Code, Section 1233.

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

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

For DSHA Use Only

Approved by:

Date:

## **Exhibit A - Attachments**

1. Certified copy of your financial statement(s) for the past three years, audited if available or tax returns.
2. True copy of Construction Contract and any other agreements relating to a Housing Development.
3. Copies of your most recent report/brochures and evidence of successful completion of projects
4. Three (3) Business/Bank References.
5. Bonding capacity letter from surety.
6. Proper general liability insurance documentation.
7. Business license and EI#.
8. Letter of authorization for DSHA to request credit report for both personal and business accounts.
9. Energy Star Partnership certification, [www.Energystar.gov](http://www.Energystar.gov)

## **Appendix A**

Please list all major projects your firm is now involved with, and provide a brief description of the general type of work, dollar value, and projected completion date for each.