



Housing & Redevelopment Authority
of Virginia, Minnesota

REQUEST FOR PROPOSALS

Accounting & Housing Software
November 8, 2024



INTRODUCTION

The Virginia Housing & Redevelopment Authority (hereinafter, "HA") is a public entity that was formed in 1949 to provide federally subsidized housing and housing assistance to low-income families. The HA is headed by an Executive Director (ED), is governed by a five-person board of commissioners and is subject to the requirements of Title 24 of the Code of Federal Regulations (hereinafter, "CFR") and the HA's procurement policy. Though brought into existence by a Resolution of the City of Virginia, it is a separate entity from the City.

Currently, the HA owns and/or manages over 450 housing units in the City of Virginia and administers approximately 525 Housing Choice Vouchers (Section 8) across northern St. Louis County. The HA intends to access state funding in late 2025 to operate a state rental assistance program estimated to fund approximately 80 vouchers. The HA'S housing units are public housing and market rate units located in multiple buildings throughout the City of Virginia. The HA is also under contract to manage the Eveleth HA, which consists of 34 public housing units.

Purpose of RFP

In keeping with its mandate to provide efficient and effective services, the HA is currently soliciting proposals from qualified entities to provide an enterprise-wide software that will enable the HA to run all aspects of financial accounting and housing management programs effectively and efficiently. The system must clearly demonstrate the ability to conform to all requirements of project-based accounting, budgeting and management, HUD, and Generally Accepted Accounting Principles (GAAP). The HA is also inquiring about the responding vendors capacity to provide additional software modules as indicated in the RFP.

All proposals submitted in response to this solicitation must conform to all of the requirements and specifications outlined within this document and any designated attachments in its entirety.

CONTACT AND SUBMITTAL INFORMATION

HA CONTACT PERSON
HA CONTACT INFORMATION

Dana Hiltunen, Executive Director
dana@vhra.org
(218)735-6309

PROPOSAL SUBMITTAL DEADLINE

3:00 pm on December 18, 2024

PROPOSAL SUBMITTAL

The information submitted must be labeled Virginia HRA IT Software Proposal and be submitted by email at the following address:

Email: dana@vhra.org
Subject Line to State:
Virginia HRA Software Proposal

1. HA Reservation of Rights

The HA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP. All proposals shall remain valid for a period of one hundred and eighty (180) calendar days after the date specified for receipt of proposals. All costs of the proposal process, interviews, contract negotiation, and related expenses, are solely the responsibility of the vendors.

The HA reserves the right to:

- a. reject any or all proposals, to waive informalities and minor irregularities in the RFP process, or to terminate the RFP process at any time, if deemed by the HA to be in its best interests;
- b. not to award a contract pursuant to this RFP;
- c. terminate a contract awarded pursuant to this RFP, at any time for its convenience upon written notice as in compliance with the executed contract to the successful proposer(s);
- d. determine the days, hours, and locations that the successful proposer(s) shall provide the services called for in this RFP;
- e. negotiate the fees proposed by the proposer entity;
- f. reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services;
- g. to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein;
- h. contact any responding vendors to clarify any response;
- i. contact any current users of the responding vendors' services;
- j. solicit information from any available source concerning any aspect of the proposal; and;
- k. seek and review any other information deemed pertinent to the evaluation process.

2. Housing Authority Accounting and Housing Management Software Related Information

The HA has utilized Lindsey Software for its accounting and housing management software since 2008. We utilize modules that work with Lindsey for online applications, mobile inspections, mobile work orders, online rent payments, etc. Some of these modules are built into Lindsey and others integrate data into Lindsey. This system is cloud based and can be accessed from any location. Currently 16 employees access this system for one or more of the applications. The HA is considering accounting and housing management software to not only replace the current functions of Lindsey, but to also increase efficiency and expand the services we offer our tenants and clients.

3. Scope of Work and Specifications

The HA is seeking software to manage the various functions of the HA. This following identifies the applications and needs of the HA.

A. Financial Applications

- a. General Ledger
- b. Budgeting
- c. Accounts Payable
- d. Bank Reconciliations
- e. Tenant Billing
- f. Online tenant Payments for rent, deposit, damages etc
- g. Purchasing & Requisitioning (Not currently using Lindsey for this)
- h. Accounts Receivable
- i. Invoice Creation/Tracking

- j. Inventory Tracking (Not currently using Lindsey for this)
- k. Capital Assets (Currently using CS Professional Fixed Assets) **
- l. Capital Fund Management
- m. Grant Management
- n. Payroll & Time Tracking Option or Ability to Upload from Existing Payroll System into General Ledger *
- o. Facilitate Online Banking with Direct Deposit
- p. Bulk Adjustments to Records - (rent increases, re-occurring charges, flat rents, income limits, utility allowances, etc.)
- q. Direct Deposit of Housing Assistance Payments (HAP)
- r. Journal Entry Upload from Excel
- s. Trial Balance Reporting
- t. Income Statement Reporting
- u. Balance Sheet Statement Reporting
- v. Other Financial Reports Available
- w. Actual to Budget Reporting

* The HA currently uses Bamboo for our payroll system and time tracking. If the responding vendor has an option for payroll and time tracking the HA would consider implementing that feature. If the responding vendor does not offer this option, the HA needs the responding vendor to indicate how payroll information will be uploaded into the general ledger.

** We currently use CS Professional Fixed Assets to keep track of all our Fixed Assets.

B. Housing Applications

- a. Applicant Waiting List(s) (must handle multiple programs)
- b. Online Applications
- c. Appointment Management (multiple programs)
- d. Unit Management (multiple programs)
- e. Vacancy Tracking (multiple programs)
- f. Low Income Public Housing Tenant Management
- g. Section 8 Housing Choice Voucher Tenant Management
- h. Tenant Repayment Agreements
- i. Project Based Section 8 Vouchers
- j. Other State Rental Assistance Programs
- k. Market Rate Tenant Management
- l. Mobile Work Order/Maintenance System
- m. Creation & Submission of 50058 (and the future potential for the 50059 form in the future)
- n. Rent Calculation for Public Housing and Section 8 Housing Choice Voucher Management
- o. SEMAP Reporting
- p. VMS Reporting
- q. Tenant/Participant Forms and Letters
- r. NSPIRE Inspections
- s. HQS Inspections
- t. Mobile Application for Inspections
- u. Demographic Reporting – reporting features for both program applicants and participants, with the ability to select various characteristics, by program
- v. Tenant Portal/App – Access for applicants, tenants and participants to make changes to their application, report changes in income, submit re-examine information electronically, sign forms, sign and access their lease, etc.
- w. Electronic Tenant File Record Management & Automated Workflows (not currently utilized)

- x. Automated Communication System
- y. Family Self-Sufficiency Tracking (currently tracked in Family Metrics)
- z. PIC/HIP Submission (currently internally submitted)

C. Data Conversion

Attachment A describes a general outline of data to be converted. Data conversion will be required from the existing Lindsey Software system. As previous I noted, the HA has data also present in the CS Professional Fixed Assets system. If the responding vendor has a payroll and time tracking solution, the HA will require information from Bamboo to be included in the data conversion. Data Conversion to include conversion of historical data for a minimum of 36-months. The installation, successful implementation, and testing of the software on the HA’s computer network is required. The type of current software now being used by the HA is Lindsey (which was recently purchased by MRI).

D. Training

Responding vendors must have sufficient resources to provide all initial application module training of the HA staff to include end-users, managers, and Information Technology staff, if necessary, sufficient for the HA to operate independently. Technical training must include a conceptual overview of all modules and how they interact and interface with each other. A detailed training plan and associated cost must be clearly stated in the RFP response.

E. Technical Support and Software Updates

Responding vendors must provide ongoing technical support and software updates to maintain compliance with Federal directives, and to provide for bug fixes and product enhancements.

Each proposal must include a full description of the software, Respondent’s standard maintenance and support agreements, including annual costs to the HA for these services. These maintenance agreements must provide for periodic updates to the software for product enhancements, bug fixes, tax and regulatory compliance, etc. Each proposal must fully document the Respondent’s upgrade policy including any costs for upgrades outside the standard maintenance contract.

When describing telephone or “chat” support, proposals must specify all conditions (incl. availability times, escalation processes, etc.).

F. Respondent Experience

The Respondent must be thoroughly familiar with the application areas specified and have an installed base of customers currently using the proposed products. The Respondent shall have the staff, technical, and financial resources to reliably support the proposed system.

G. Cloud Based Service/Security

It is not the intention of the HA to maintain the software on the HA server. Respondent shall describe the cloud-based services offered and how users are able to access the program from any location securely. Responding vendors must provide a description of its cyber security measures to protect the HA’s data. The selected vendor will be entirely responsible for the ongoing security of the data. The HA must own the financial and housing program data.

4. RFP and Project Schedule

EVENT	DATE
RFP Issue Date	November 8, 2024
Inquiry Deadline	December 2, 2024

Respondent Proposals Due	December 18, 2024 @ 3:00 PM (CDT)
Interview/demo of responding vendors	By February 28, 2025
Contract Negotiations/ Award of Contract	By April 30, 2025
Finalize Installation/Conversion Plan	By June 30, 2025
System fully operational by HA	To be determined

All inquiries shall be in writing and submitted via email to dana@vhra.org. If in the opinion of the HA additional material or interpretation is needed, it will be provided as an Addendum to the RFP and will be communicated to all other responding vendors. Oral instructions or information concerning the specifications of the project given out by HA employees to prospective respondents shall not bind the HA.

5. Proposal Format & Submission Requirements

Responses will be reviewed for completeness prior to detailed evaluation. Elaborate proposals are not necessary. Quality, substance, brevity, clarity, and responsiveness to the HA's needs are a priority. All proposals should follow the following format and instructions and include the items identified as follows:

A. Letter of Transmittal

The letter of transmittal shall include the following information:

- a. The company name, address, telephone, email, and website address.
- b. Authorized contact person.
- c. An individual within the company who is authorized to contractually bind the vendor must sign the letter of transmittal.

B. Executive Summary

Provide a non-technical overview of the responding vendor's business including:

- a. The range of products and services offered for housing authorities.
- b. The length of time housing authorities has been primary clients.
- c. Responding vendors should provide information reflecting how and why products and services meet the HA's needs as explained in the proposal.

C. Profile of Responding Vendor

Profile shall answer the following questions regarding your company's approach on its software:

- a. Description of the responding vendor's experience in relation to the HA financial accounting and housing management programs, the breadth of customers using similar programs, and describe the qualifications, capacity and depth of the of vendor's staff to carry out the functions as described in section 3.
- b. Identify the account representative who will be responsible for project management and work with the HA through implementation.
- c. Describe the different types of support service available, hours of operation, and when employees can discuss issues with staff directly.
- d. Describe the frequency of updates, software patches, or other modifications.
- e. Describe the policy regarding support after system upgrades are completed and whether

additional costs are required.

- f. Please provide information regarding user groups, if any.
- g. Describe how your customers influence and contribute to the content of updates.
- h. Describe your policy on user modifications, if any, and implications on cost and warranties.
- i. Describe your release schedule for updates and especially changes in HUD statutes and regulations and describe the impact, if any, on maintenance or updating processes on day-to-day operations.
- j. If a product is discontinued or your company is sold, do you have any minimum guarantees for continued support?

D. Proposed Implementation Plan

- a. A tentative schedule is laid out in section 4. However, the HA is relying on each respondent's expertise in implementation to provide reasonable and practical timeframes for implementation. The HA's fiscal year is from April to March. Describe the overall timeframes for implementation, training, data conversion, user and technical training, and an estimated "go-live" date with key dependencies noted. Assume that the implementation period starts shortly after the contract is signed.
- b. Provide a description of the current staff and technical capacity of the business to address the needs of the HA.
- c. Identify the key staff involved with training, demonstration, data conversion, and initial support.
- d. Identify the responsibilities that will be required of the HA and what responsibilities will be covered as part of your company's services.
- e. Identify the technical and non-technical resources that need to be represented on the HA project team.
- f. Identify the tools provided with the system to support user customization.
- g. Describe telephone or "chat" support, proposals must specify all conditions (incl. availability times and escalation processes).
- h. Provide one copy of applicable annual technical support / maintenance contract(s).
- i. Provide resumes of key staff members who will be involved in system project management, technical support, user and technical training.
- j. Provide a list of HA customers using the proposed software modules. Include approximate size (amount of units / number of employees) and modules in use.
- k. Provide a description of the cloud-based services offered and how users are able to access the program from any location securely. Provide a description of your cyber security measures to protect the HA's data along with detailed information on how you test your security measures.

E. Training Plan

Describe the training/education options available to your customers initially and during the course of a calendar year.

- a. Describe how the initial training will be conducted (e.g. group virtual setting) and approximate timeframes necessary for training.
- b. Provide a summarized list of topics pertinent to training for the financial and housing management modules.
- c. Describe your user training process for new upgrades and enhancements.

F. Data Conversion

Please respond to the following questions:

- a. Review and complete Attachment A, "Data Conversion Checklist".
- b. Describe data conversion assistance you will provide during implementation from the

- current system.
- c. Identify the requirements from the HA prior and during data conversion.
 - d. Do you provide sample data with which to conduct system installation verification testing? Describe the testing process.
 - e. What level of support do you provide for the conversion from our current systems to the new one?
 - f. What is the recommended sequence of programs to be converted? And is it required to convert in that sequence? (vouchers first vs. public housing)
 - g. Provide the steps that will be taken to transfer over to the new system.
 - h. Does your System require the HA to run in parallel with older system(s)?

G. References

The Responding vendor is required to submit a minimum of three (3) HA references. If possible, include references who provide similar services and are located in the state of Minnesota. Please include the name of the organization, location, contact person, contact's title, phone number and email address, size of the PHA regarding vouchers and public housing units. Also include a short system description (what installed, when, etc.) Include references for similar data conversions with other clients.

H. Proposal Costs

Responding vendors must provide cost information according to the following outline. Respondents must clearly and unambiguously specify the total cost of each element of the proposed system and must include a table summary as noted below.

- a. **Software Costs** - Identify annual software costs for the financial module and housing management module. Specify the annual support, maintenance, or other costs associated with the financial module, Section 8 Housing Choice Voucher and Public Housing program.
- d. **License Fees** - For licensing/pricing purposes, respondents should assume a total of sixteen (17) users or sixteen (17) licensed seats if based on PC/Laptop. Respondents shall also provide the cost for additional seats to be accessed by the HA as needed. License fees include license fees for system software, license fees for system operating system, database, development tools, third party license fees, software license fee (by module or function), terminal emulation license fees, etc.
- e. **Conversion Costs** - Minimum of 36-months for data to be converted to the new proposed database for all programs. The HA has limited staff and no capacity to assist in this conversion.
- f. **Training Costs** - Responding vendors should base training costs on the information in Section 3. Provide necessary detail to explain total costs.
- g. **Implementation Costs** - Include costs for services provided in the responses that are not detailed above such as project management and/or consulting costs. If applicable, provide a list of per diem rates for ancillary services such as analysts, project managers, and implementation specialists.
- h. **Optional Costs** - List pricing of additional modules not currently used, but being considered for implementation as identified in Section 3. This includes the following modules:
 - a. Payroll and Time tracking
 - b. Fixed Assets
 - c. Inventory/Warehouse
 - d. Purchasing & Requisitioning

6. Evaluation Method

A. Evaluation Committee - The HA has an established committee to evaluate each of the responsive proposals submitted in response to this RFP. The committee represents HA employees working in the identified program need areas.

B. Evaluation and Selection - The appointed evaluation committee members will each, independent of any other person at the HA, evaluate the responsive proposals submitted and award points pertaining to Evaluation Factors.

The HA reserves the right to make an award based solely on the responses to this RFP or to negotiate further with one or more vendors. The contract will be awarded to the Vendor whose proposal will be the most advantageous to the HA and whose price and other factors considered are the most closely conforming to this RFP. Due to the evaluation procedure for the Request for Proposal. The Evaluation Committee will judge the merit of the proposals/interviews received that shall include but are not necessarily limited to those listed in the Evaluation Criteria.

C. Interview - A committee determined by HA staff may interview responding vendors whose proposals are the highest rated. The interview process may include a verbal interview and/or an online demonstration of the product. The HA reserves the right to short list the RFP respondents and to interview only those HA feels are best qualified.

D. Evaluation Factors - The following factors will be utilized by the HA to evaluate each proposal submittal received; award of points for each listed factor will be based upon the documentation that the responding vendor submits within his/her proposal. Evaluation Criteria – 100 Points possible.

CRITERIA	POINTS POSSIBLE
Knowledge & Expertise of Vendor: Responding vendor proposal reflects a sufficient amount of experience delivering the proposed products and expertise regarding GAAP accounting and housing programs. The software largely meets the function requirements listed in the RFP.	30
Cost: Costs all-inclusive including but not limited to: cost of data conversion, software, licenses, installation, implementation, project management, training, and first year’s support. The HA may, at its discretion, select part or all of the hardware, software, and support services enumerated in the vendor’s proposal. The vendor must itemize and cost software, installation, support, maintenance, and other costs separately. No adjustment may be made by the vendor unless requested by the HA.	20
Support Services & Service Level Agreement: Support services include ongoing maintenance, new releases, support of HUD mandated changes and service level agreement related to issue resolution and overall responsiveness. Other factors include change management and documentation. The cost of ownership , i.e. yearly renewal, will be evaluated and considered.	20
Implementation: The ability to carry out the implementation plan within an acceptable timeframe determined solely by the HA.	15
Training Services: Training services include training approach, education options, and training with like or test system.	15

7. Contract Award Procedure

The authority will make an award based on the proposal that best conforms to the solicitation and is most advantageous to the authority. The point ranking system as outlined in this RFP is designed to assist the authority in determining those proposals which best conform to the solicitation. The Authority may award the contract to other than the lowest price offer. If all proposals do not meet the HA criteria or the satisfaction of the Authority, the software contract may not be awarded. If a contract is awarded pursuant to this RFP, the following detailed procedures will be followed:

A. Contract Conditions

By completing, executing and submitting the Proposal the “responding vendor” is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HA, including the contract clauses already attached and identified in this RFP including General Conditions. Accordingly, the HA has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published.

B. Contract Form

The HA will not execute a contract on the successful responding vendor's form--contracts will only be executed on the HA form. An example of the contract utilized by the HA is included as attachment C. By submitting a proposal the successful responding vendor agrees to enter into a contract with the HA utilizing the HA contract. The HA reserves the right to amend this form as the HA deems necessary. The HA will consider requested changes to the contract clauses that the responding vendor wishes to include if they are submitted in writing by the vendor with the proposal; however, the failure of the HA to include such clauses does not give the successful responding vendor the right to refuse to execute the HA 's contract form. The proposer may also submit an inquiry to the HA during the inquiry period if the HA decision of the proposed changes would affect whether the vendor would or would not submit a proposal.

Please note that the HA has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as a part of this RFP.

C. Unauthorized Sub-Contracting Prohibited

The successful responding vendor shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the HA. Any purported assignment of interest or delegation of duty, without the prior written consent of the HA shall be void and may result in the cancellation of the contract with the HA, or may result in the full or partial forfeiture of funds paid to the successful responding vendor as a result of the proposed contract; either as determined by the HA.

D. Contract Period

The HA anticipates that it will initially award a contract for the period of 3 years with the option, at the HA's discretion, of two additional one-year option periods, for a maximum total of 5 years.

E. Licensing and Insurance Requirements:

Before commencing work, the Contractor and each subcontractor shall furnish the HA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:

- a. Workers' Compensation, in accordance with Minnesota laws.
- b. Professional Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence. The Owner must be listed as a certificate holder and "Additional Insured" Liability Insurance.
- c. Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract. The Owner must be listed as "Additional Insured" on the Commercial General Liability.
- d. Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence.

If applicable, provide a copy of the responding vendor's business license allowing that entity to provide such services within the state of Minnesota, and/or a copy of the responding vendor's license issued by the State of Minnesota licensing authority allowing the responding vendor to provide the services detailed herein.

F. Right To Negotiate Final Fees

The HA shall retain the right to negotiate the amount of fees that are paid to the successful responding vendor, meaning the fees proposed by the top-rated responding vendor may, at the HA's options, be the basis for the beginning of negotiations. Such negotiations shall begin after the HA has chosen a top-rated responding vendor. If such negotiations are not, in the opinion of the HA successfully concluded within fifteen (15) business days, the HA shall retain the right to end such negotiations and begin negotiations with the next-rated responding vendor. The HA shall also retain the right to negotiate with and make an award to more than one responding vendor, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e. top-rated first, then next-rated following until a successful negotiation is reached).

G. Contract Service Standards

All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

8. Request for Proposal Attachments

- A. Attachment A: Data Conversion Checklist
- B. Attachment B: Summary of Proposal Costs
- C. Attachment C: Example of Proposed Contract & HUD-5370-CI, "General Conditions"
- D. Attachment D: HUD-5369-A, "Representations, Certifications & Other Statements of Bidders"
- E. Attachment E: HUD-5369-B, "Instructions to Offerors"

Project No.: _____
Project Name: Housing & Redevelopment Authority of Virginia Minnesota
Project Location: _____
Virginia, MN

THIS SERVICES CONTRACT is made this _____ day of _____, 20____, between _____ (hereinafter referred to as the “Contractor”) and the Housing and Redevelopment Authority of Virginia, Minnesota (hereinafter referred to as the “Owner”).

The Contractor and the Owner agree as follows:

Article 1: Scope of Contract

- A. The Contract between the parties is set forth in the “**Contract Documents**”, which consist of this Agreement and the other documents identified in Article 2 below. Together, these form the entire Contract between Owner and Contractor, and by this reference these Contract Documents are fully incorporated herein.
- B. Except to the extent specifically indicated in the Contract Documents to be the responsibility of others, Contractor shall furnish all of the materials and complete the following:

Article 2: Contract Documents

- A. The Contract Documents are identified as follows:
 - 1) This Services Contract (**This Agreement**).
 - 2) Proposal of Services as prepared by the Contractor in Attachment “A”
 - 3) Implementation Schedule in Attachment “B”
 - 4) Fee Schedule in Attachment “C”
 - 5) General Conditions as indicated in HUD-5370-C, Section I, Attachment “D”
 - 6) Any change orders approved after the execution of this Contract

Article 3: Time

- A. Contractor shall implement the software conversion per the agreed upon schedule as described in Attachment “B”. After implementation is complete, the ongoing software services will be provided in accordance with the Contractor proposal for a period of three years, from _____ to _____. The Owner may extend the contract with the Contractor thereafter for two one-year periods at its sole discretion.
- B. If Contractor does not fulfill its obligations to meet the implementation timeline or such date to which the implementation completion deadline may be mutually extended by approved change order, including any authorized changes, the maximum sum stated in Article 4.A. below shall be reduced by 1% of the total contract amount per calendar day of delay, until the Project Completion (“Liquidated Damages”).

Article 4: Contract Sum

- A. Owner shall pay Contractor for the services performed to complete implementation of the software and services as described in this contract in the amount not to exceed _____.
- B. Owner shall pay Contractor ongoing software service fees to provide ongoing services as described in this contract and agreed upon in Attachment “C”.

Article 5: Requisition and Payment Procedures

- A. Subject to the conditions set forth in this Contract, the Owner shall make payment to Contractor in consideration for Contractor’s full and satisfactory performance of all provisions of this Contract. Contractor requesting to be paid for a partial payment or payment in full, shall submit an invoice and all requested Owner documentation for work completed to date. The Owner will make the payment within 30 days after receiving all required information, provided the information submitted is acceptable and in compliance with Owner requirements.
- B. There shall be withheld from the final payment an amount satisfactory to Owner for any Work items that are incomplete at the time of such final payment.

- C. The Owner will provide Contractor with an annual Internal Revenue Service Form #1099, designating the amount of payment made to Contractor.

Article 6: Obligations of Contractor

- A. Contractor must require all sub-contractors to follow the provisions of this contract.
- B. Contractor shall only assign qualified personnel to perform the services provided under this contract.
- C. All work performed by the contractor, pursuant to this contract, shall be done in accordance with applicable Federal, State and local laws, regulations, codes and ordinances.
- D. If applicable, Contractor shall maintain any licensure necessary to perform the work to be delivered under this contract. It is the Contractor responsibility to provide proof of this licensure to the Owner. Contractor must notify Owner within 5 days of revocation of applicable licensure. Failure to maintain necessary licensure is a material breach of this contract.
- E. Contractor warrants and represents its owes no outstanding delinquent federal, state or local taxes or business assessments.
- F. Contractor agrees to notify Owner of any IRS or tax liens or insurance suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. Failure by the Contractor to disclose such issue to the Owner within 5 days of such notification received will constitute a material breach of this contract.
- G. Contractor agrees to promptly disclose any change of more than 50% of its ownership and/or any delegation of bankruptcy that the Contractor may undergo during the term(s) of this contract. Failure by the Contractor to disclose such changes to the Owner within 5 days of such notification received will constitute a material breach of this contract.

Article 7: Applicable Laws

- A. The laws of the State of Minnesota shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Saint Louis County, Minnesota is the appropriate forum for any action relating to this contract.

Article 8: Insurance Requirements

- A. Before commencing work, the Contractor and each subcontractor shall furnish the Owner with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:
 - a. Workers' Compensation, in accordance with Minnesota laws.
 - b. Professional Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence. The Owner must be listed as a certificate holder and "Additional Insured" Liability Insurance.
 - c. Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract. The Owner must be listed as "Additional Insured" on the Commercial General Liability.
 - d. Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence.

Article 9: Designation of Representatives

- A. Owner hereby designates _____ as its representative for all communications involving Work performed pursuant to this Contract.
- B. Contractor hereby designates _____ as its representative for all communications involving Work to be performed pursuant to this Contract.

Article 10: Severability

- A. The invalidity of any provision of the Contract shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

Article 11: Liability

- A. The Owner shall not be liable for injury or damage to Contractor in the course of services rendered by contractor under this Agreement except to the extent such injury or damage is caused by the negligent acts or omissions of Owner.
- B. The Contractor shall indemnify, defend, and hold harmless Owner from any and all liability, damage and/or claims by any party to the extent caused by or the result of Contractor's negligent acts or omissions in performing the work called for in this Agreement.

Article 12: Confidentiality

- A. The Contractor agrees to comply in all respects with the Minnesota Government Data Practices Act as well as with any requests of the Owner, which are necessitated by the Owner's obligations under said Act.

Article 13: Examination and Retention of Contractor's Records

- A. The Owner, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

Article 14: Right in Data and Patent Rights (Ownership and Proprietary Interest)

- A. The Owner shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by Contractor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

Article 15: Termination for Cause and for Convenience

- A. The Owner may terminate this contract in whole, or from time to time in part, for the Owner's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The Owner shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Owner all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process. (b) If the termination is for the convenience of the Owner, the Owner shall be liable only for payment for services rendered before the effective date of the termination. (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (cause/default), the Owner may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the Owner, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the Owner; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the Owner to the Contractor. In the event of termination for cause/default, the Owner shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

Article 16: Contract Modifications

- A. All changes to this contract or the scope of work must be agreed to by the Owner and reduced to writing in the form of a contract addendum or change order.



IN WITNESS, THEREOF, the parties have executed this Contract, and in signing, each party also certifies the person signing has the legal authority to bind his/her respective organization in this Contract.

CONTRACTOR: _____

By (authorized agent): _____

Printed Name, Title: _____

OWNER: Housing and Redevelopment Authority of Virginia, Minnesota

By (authorized agent): _____

Printed Name, Title: Dana Hiltunen

Executive Director

General Conditions for Non-Construction Contracts

Section I — (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2027)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number. This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 75. The form is required for non-construction contracts awarded by Public Housing Agencies (PHAs). The form is used by PHAs in solicitations to provide necessary contract clauses and allows PHAs to enforce their contracts. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. Do not send this completed form to either of these addressees. The information collected will not be held confidential.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$250,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$250,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$250,000 — use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$250,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

proposal submitted before final payment of the contract.

- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

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- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
 - (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
 - (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section 111, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(v) The prohibition does not apply as follows:

-
- (1) Agency and legislative liaison by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.
- (b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
- (c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:
- (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
- (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:
- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
- (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
- (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.
- (2) Professional and technical services.
- (a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-
- (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
- (i) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.
- (iii) Selling activities by independent sales representatives.
- (c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:
- (i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
- (ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
- (e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.
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16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, 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/seller] 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 nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, 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 contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance 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/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance 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/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub[contractor/seller] or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] 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.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Brail or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, 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, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

18. Dissemination or Disclosure of Information

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

19. Contractor's Status

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

20. Other Contractors

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

21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

23. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered

materials practicable consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract

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

**Representations, Certifications,
and Other Statements of Bidders**
Public and Indian Housing Programs

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

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1. Certificate of Independent Price Determination

(a) The bidder certifies that--

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

(b) Each signature on the bid is considered to be a certification by the signatory that the signatory--

(1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

_____ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [] is, [] is not included with the bid.

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

(b) The bidder represents and certifies as part of its bid that, except for full-time bona fide employees working solely for the bidder, the bidder:

(1) [] has, [] has not employed or retained any person or company to solicit or obtain this contract; and

(2) [] has, [] has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(c) If the answer to either (a)(1) or (a)(2) above is affirmative, the bidder shall make an immediate and full written disclosure to the PHA/IHA Contracting Officer.

(d) Any misrepresentation by the bidder shall give the PHA/IHA the right to (1) terminate the contract; (2) at its discretion, deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
- (b) Impair the bidder's objectivity in performing the contract work.

[] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

7. Small, Minority, Women-Owned Business Concern Representation

The bidder represents and certifies as part of its bid/ offer that it --

(a) [] is, [] is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) [] is, [] is not a women-owned business enterprise. "Women-owned business enterprise," as used in this provision, means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) [] is, [] is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- | | |
|------------------------|------------------------------|
| [] Black Americans | [] Asian Pacific Americans |
| [] Hispanic Americans | [] Asian Indian Americans |
| [] Native Americans | [] Hasidic Jewish Americans |

8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [] is, [] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [] is, [] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

9. Certification of Eligibility Under the Davis-Bacon Act (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

10. Certification of Nonsegregated Facilities (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

- (1) Obtain identical certifications from the proposed subcontractors;
- (2) Retain the certifications in its files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

11. Clean Air and Water Certification (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [] is, [] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

12. Previous Participation Certificate (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" [] is, [] is not included with the bid.

13. Bidder's Signature

The bidder hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

(Signature and Date)

(Typed or Printed Name)

(Title)

(Company Name)

(Company Address)

Instructions to Offerors

Non-Construction

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



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/ HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the HA will be considered at any time it is received and may be accepted.

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]