

REQUEST FOR PROPOSALS



STRATEGIC PLANNING CONSULTANT

PROPOSAL DUE DATE:

**January 12, 2022
2:00 PM Local Time**

PART 1 – INTRODUCTION

1.1 GENERAL

The **Housing Authority of the City of Columbia, South Carolina** (Columbia Housing) Board of Commissioners (BOC) and Executive Leadership Team are launching a strategic planning process that will outline the Authority’s vision, goals, and objectives. The purpose of this request for proposals (RFP) is to solicit the services of a skilled consultant to facilitate a planning process leading to a strategic plan that furthers the organization’s Mission; clearly articulates the future Vision; and, exemplifies the organizational Values.

The strategic planning process will assist the BOC to redefine the organization as it implements the Vision 2030 Plan that will reposition the real estate portfolio and exit the Public Housing Program. Through the strategic planning process, the BOC will clarify Columbia Housing’s role in affordable and workforce housing in the City of Columbia and Richland County, as well as its role in the provision of supportive services for the clients we serve.

The selected Consultant will design and facilitate structured processes that include input from a diverse array of stakeholders, both internal and external, including residents, participants, landlords, local government, neighborhood leaders and other community partners and stakeholders. It is anticipated that the contract period will be approximately six months beginning in March 2022, and concluding no later than September 30, 2022.

The Strategic Plan document will serve as a vital tool and roadmap for Columbia Housing Commissioners and staff to utilize in setting direction; forging partnerships; and allocating resources for the next five years, 2023 through 2028).

1.2 RFP AT A GLANCE

RFP Availability	December 14, 2021 – 8:00 AM Local Time Columbia Housing Website www.columbiahousingsc.org Click on Business Opportunities
Questions	December 22 - 5:00 PM Local Time Submit written questions via e-mail: cherrera@columbiahousingsc.org Deadline for submission of questions - Response provided via Addenda to the RFP no later than January 4, 2022, 5:00 PM
Proposal Due Date and Submittal	January 12, 2022 – 2:00 PM Local Time Columbia Housing 1917 Harden Street Columbia, SC 29204 Electronic submission only on jump drive, delivered by deadline.
Selection of Consultant	February 3, 2022 Board of Commissioners Special Meeting
Strategic Plan Complete	September 30, 2022
Contact	LuCinda Herrera cherrera@columbiahousingsc.org Phone: (843)810-5073

1.3 BACKGROUND

Columbia Housing - The Housing Authority of the City of Columbia, SC was created under the 1937 Housing Act for the purpose of providing decent, safe and sanitary housing to the low and moderate-income residents of the City of Columbia and Richland County. Today, Columbia Housing is the largest housing authority in the State of South Carolina serving nearly 6,500 low-income households and over 16,000 individuals throughout the City of Columbia and Richland County.

Columbia Housing owns and manages a variety of affordable housing units and administers Section 8 Housing Choice Vouchers along with a myriad of supportive service programs for residents.

A seven-person Board of Commissioners authorized by laws of the State of South Carolina and appointed by the Mayor of Columbia, is responsible for the development of housing policy and the authorization of expenditures.

As with many urban Public Housing Authorities, Columbia Housing has encountered the difficulties of managing an aging housing stock with diminishing federal funding. For decades, the Public Housing portfolio provided not only decent, safe and sanitary housing, but a strong sense of community for the families residing in public housing. Overtime, it became more difficult to continue to maintain these aging properties. In 2019, tragedy struck our agency and two residents died from carbon monoxide poisoning.

In response to the continuing deterioration of the Public Housing portfolio, Columbia Housing launched the Vision 2030 Plan and has embarked on an aggressive journey to reposition all public housing communities and exit the public housing program.

Understanding that the exit from the traditional Public Housing program will redefine the Authority, the Board of Commissioners recognized the need to implement a strategic planning process. Columbia Housing has traditionally relied solely on the HUD agency plans but as we move to resolve the challenges of our aging real estate portfolio, it is time to review our role in the affordable housing continuum that serves the City of Columbia and Richland County.

PART II – PROJECT SCOPE

2.1 OVERVIEW

The selected Consultant will work closely with the Board of Commissioners throughout the strategic planning process and communicate directly with the Board and/or its designee. The process to be undertaken under this solicitation is expected to result in a clear, concise strategic plan, that not only articulates the agency’s Vision, Goals and Objectives but also provides a data-driven matrix of performance outcomes by which the Board of Commissioners can measure the success of achieving the stated goals and objectives.

The planning process should seek response to the following questions.

1. What is the public perception of Columbia Housing by residents, voucher participants, community partners, staff and the general public?
2. How can Columbia Housing ensure that affordable housing remains a vibrant component of the bustling downtown center of the city?

3. What are the primary housing needs in our community and how does Columbia Housing best meet those needs?
4. How do we enhance collaboration with community partners and service providers to better serve non-housing needs of residents?
5. How do we ensure that our housing stock, regardless of funding source, is well maintained and continues to meet the long-term needs of residents?
6. What can we do to better serve and support applicants on waiting lists for our housing programs?
7. How can we ensure the short, medium and long-term safety, health, economic and housing security and overall well-being of Columbia Housing clients?
8. How can we use Columbia Housing to provide not only a safety net but, when appropriate, a spring board to self-sufficiency and decreased reliance on public support?
9. What gaps in service and support and meeting of community demand currently exist and how can we strategically position ourselves to most efficiently and effectively meet those needs?
10. How are we being responsive to clients and stakeholders; what feedback loops do we currently have in place; what are best practices; and, how can we implement these?

2.2 PHASE I – COMMUNITY ENGAGEMENT AND DATA ANALYSIS

Columbia Housing understands that addressing affordable housing needs is a complex task that requires an integrated effort among many partners. Thus, the Authority is committed to engaging with these partners as an essential component of the planning process.

The Consultant shall solicit input from internal and external stakeholders utilizing a variety of engagement methods including surveys, meetings, interviews, and focus group sessions. The BOC will establish a small stakeholder roundtable to provide guidance, as needed, during the planning process.

The Agency's broad stakeholder community includes: Board of Commissioners; Staff at all levels; Resident Executive Committee; Public Housing Residents; Housing Choice Voucher Participants and Landlords; Housing Developers; City and County Government; SCHousing; Advocacy Organizations; Social Service Agencies; and Vendors and Contractors.

Additionally, during Phase I of the process, Columbia Housing will work with the selected Consultant to identify pertinent studies, plans, and datasets to inform the Strategic Plan. The Consultant will review existing documents to identify trends, issues, and objectives that may impact the Strategic Plan. Such documentation includes City and County Comprehensive Plans and Annual Action Plans; Columbia Housing's Vision 2030 Plan and previous five-year plan; the Homeless Continuum of Care Plan and other relevant planning documents. The Consultant will identify and analyze shared priorities and goals in the plans reviewed.

During this work phase, the Consultant will perform the following tasks:

1. Outline the role of the Consultant, the Board of Commissioners and the Staff in the overall planning process.
2. Develop a detailed work plan with timelines to complete work tasks and produce a final strategic plan within the timeframe established (estimated six months).
3. Design and facilitate structured processes that will lead to a board adopted strategic plan with buy-in from stakeholders.
4. Coordinate meetings/retreats with BOC and staff leadership.

5. Conduct an analysis of the local environment that includes internal and external trends as well as an overall organizational analysis.
6. Engage agreed upon stakeholders utilizing various methodologies identified in the overall project plan.
7. Review all other plans of the organization including the HUD required Five Year and Annual Agency Plans, Security Plan, Maintenance Plan and others identified, to determine if existing plans include strategic goals and objectives to integrate into the Strategic Plan or if these “plans” are standalone documents.
8. Evaluate current infrastructure that supports the organization’s primary business lines, including Communications, Information Technology, Human Resources, and Maintenance Operations.
9. Review the organizational structure and funding and quantify the impact that exit from the Public Housing program will have on the organization’s structure and funding.

Upon completion of Phase 1, the Consultant will synthesize major findings into a written **Evaluative Report**. The Report will include compilation of survey responses, focus group and interview summaries along with a SWOT (strength, weakness, opportunity, threat) analysis. The Evaluative Report will serve as a major resource that will inform the Strategic Plan.

2.3 PHASE II – DRAFT AND FINAL STRATEGIC PLAN DOCUMENTATION

During Phase 2, the Consultant will facilitate the BOC and Executive Staff in crafting and formalizing the Strategic Plan informed by the Phase 1 deliverables detailed above.

The Consultant will facilitate a working session to begin drafting a Strategic Plan that will be informed by the Evaluative Report which will be presented for review and discussion at the outset of the working session.

The overriding objective of the working session is to develop a planning framework with the following deliverables:

- Review and assess and/or revise the Mission Statement so that it effectively captures the Agency's fundamental purpose.
- Review and assess the Vision Statement to assure that is future-oriented and aspirational.
- Review and assess the statement of values that reflect the Agency's underlying principles.
- Craft strategic goals and objectives that are that are specific, measurable, attainable, relevant and timely (SMART).
- Summarize the role of Columbia Housing including its structure and funding
- Outline themes and issues related to Agency branding.

Following the working session, the Consultant will prepare a Strategic Plan document that incorporates the organizational framework developed by Commissioners and staff in the working session. Specific deliverables include:

- A Strategic Plan document which embodies the newly-formed mission, vision, values, goals, and objectives.
- Determine the relationship of other “plan” documents and incorporate as appropriate to the Strategic Plan document.

- Design a Reporting Tool that captures performance metrics and methodology that can be used for monitoring and tracking the Agency's progress toward achieving Plan goals and objectives.
- Draft an Executive Summary which encapsulates the Strategic Plan that can be used for ongoing stakeholder engagement, press releases, grant writing, and other purposes.
- Conduct a final working session with the BOC and senior staff wherein the Consultant will present the Strategic Plan and Ancillary Documents for discussion and feedback.
- Finalize Strategic Plan, Reporting Tool, and Executive Summary thereby completing the engagement.

PART III - SUBMISSION REQUIREMENTS

3.1 METHOD OF SOLICITATION AND SCHEDULE

Columbia Housing is asking Consultants for professional qualifications to develop and implement a strategic planning process and finalize a strategic plan based on the information obtained throughout the agreed upon process.

It is the intent of Columbia Housing to select Developers, based on qualifications to select a single firm and/or individual to perform the services identified in this solicitation. It should be noted that the dates listed are estimated and may be changed based on the needs of the Housing Authority. Changes in dates will be issued via an addendum to this solicitation.

STRATEGIC PLANNING CONSULTANT SELECTION	ESTIMATED DATE
Availability of RFQ Package	Tuesday December 14, 2021 – 8:00 AM
Deadline for Submission of Questions	Wednesday December 22, 2021 – 5:00 PM
Issuance of Response to Questions (Addendum)	Tuesday January 4, 2022 – 5:00 PM
DUE DATE	WEDNESDAY JANUARY 12, 2022 2:00 PM LOCAL TIME
Preliminary Evaluation Completed/Firms Shortlisted	Tuesday January 25, 2022
Interview of Shortlist Firms (Optional)	Friday January 28, 2022
Selection of Consultant	Thursday February 3, 2022

3.2 CONTENT OF SUBMISSION

Respondents shall submit the following documentation in the order listed, which will serve as the **Statement of Qualifications**. The maximum length of the total proposal **shall not exceed 10 pages**.

Tab 1 – Cover Letter

A cover letter which provides an introduction summary of the respondent(s) ability to perform the services requested under this solicitation.

Tab 2 – Experience and Key Personnel

A description of the respondent's overall knowledge of the processes required for strategic planning and experience in the areas listed below. Include the names and resumes of key personnel who will be assigned to this engagement. (Resumes are not included in the maximum number of pages for the proposal).

- Facilitating Strategic Planning Processes for other governmental agencies including Public Housing Authorities.
- Utilizing a variety of engagement methods to solicit the input of community stakeholders on issues germane to strategic objectives.
- Identifying local and industry trends and issues affecting affordable housing.
- Gathering and analyzing documents necessary to identify issues to be addressed in a Strategic Plan
- Identifying challenges that may be encountered that can be incorporated in the Strategic Plan

Tab 3 – Approach

Describe your approach to implement a Strategic Planning Process. Provide a sample Executive Summary of another plan that you have recently produced and explain your ability to perform the scope of services within the timeframe outlined.

Include the following in your approach:

- Approach to understanding the objectives and issues articulated by the agency's internal and external stakeholders
- Approach to performing SWOT analysis and evaluating existing plans and related documents
- Approach to collaborating with agency personnel to understand functional challenges and utilize that information to inform strategic goals and objectives.
- Approach to initiation and evaluation/monitoring of strategic plan

Tab 4 – Costs

Complete the fee proposal form in the format prescribed in Attachment 1 which provides a total estimated cost for the provision of services. Identify all personnel, hourly rates, and the number of hours proposed to work under this engagement. In addition, identify proposed overhead and profit, travel costs and other costs that may be associated with the provision of the services requested.

Tab 5 – References and Forms

Provide three (3) references of current or recent clients for whom you have performed services similar to those described in this solicitation.

All forms attached and/or required to be attached to the Statement of Qualifications as identified in this request shall be included in this Section.

3.3 DIRECTIONS FOR SUBMISSION

The Statement of Qualifications shall be submitted on a flash/jump drive as a single pdf document. The electronic file shall include a divider page inserted at the beginning of each section that clearly labels and identifies the corresponding section of the submission.

Respondents shall submit the jump/flash drive in a sealed envelope clearly marked as follows:

**RFQ – STRATEGIC PLANNING CONSULTANT
DUE DECEMBER 29, 2020 AT 2:00 PM LOCAL TIME
COLUMBIA HOUSING
1917 Harden Street
Columbia, SC 29204
Attention: LuCinda Herrera**

Sealed envelopes may be mailed or placed in the brown drop box located at the front of the main entrance to the address above.

Response must be received by the proposal due date and time.

**PROPOSAL DUE DATE AND TIME:
WEDNESDAY, DECEMBER 29, 2021 AT 2:00 PM LOCAL TIME**

Proposals sent by overnight delivery service will be considered timely filed if date stamped at least one (1) day before the date set for receipt of proposals and time stamped at a time that should have, pursuant to the express policy of the overnight delivery service used, permitted delivery at the date, time and place set for receipt of proposals. The burden of proof to establish timely filing of a proposal by overnight delivery service shall be solely upon the entity or person submitting the proposal. It is the respondents' obligation to ensure the required submission arrives in a timely manner at the specified location. Any proposal which is not properly marked, addressed or delivered to the submission place, in the required form, by the required submission date and time will be ineligible for consideration.

Faxed or e-mail submissions of the Statement of Qualifications will not be accepted.

Formal communication, such as requests for clarification and/or information concerning this solicitation shall be submitted via e-mail to LuCinda Herrera, at cherrera@columbiahousing.org by the date stated in the above solicitation schedule.

Responses to inquiries will only be provided in writing via issuance of an addendum to this RFQ by the date stated in the schedule detailed above. All addenda will be issued via Columbia Housing website: <https://www.columbiahousing.org/> under "Business Opportunities"; Procurement Postings.

PART IV - SELECTION PROCESS

4.1 DETERMINATION OF RESPONSIVENESS

An initial review process will be conducted by Columbia Housing staff to establish responsiveness. Responsiveness will be confirmed through determining if the Respondent(s) have met all mandatory requirements outlined in this Request. Any submission not in compliance with the mandatory requirements will be deemed “non-responsive”.

4.2 EVALUATION CRITERIA

The Statements of Qualifications will be evaluated through consideration of several factors. The Evaluation Committee will review all documents in the submissions and award points in accordance with the following criteria.

EXPERIENCE AND KEY PERSONNEL	
Criteria	Maximum Points
Demonstrated understanding of the services requested including previous experience in development and implementation of strategic planning processes; development of metrics to measure performance outcomes and achievement of state goals and objectives; experience in the community and stakeholder engagement process; and experience in leading work sessions. Capability and experience of key personnel; and, determination of availability of all required skills necessary for the strategic planning process.	50
APPROACH	
Criteria	Maximum Points
Clarity of overall approach and soundness of proposed work plan. Demonstrated ability to perform services and complete all tasks within the desired timeframe.	30
COSTS	
Criteria	Maximum Points
Competitiveness of hourly rates, overhead, profit and travel expense and reasonableness of overall total costs.	20
TOTAL POSSIBLE POINTS	100

4.3 SELECTION

An evaluation committee will score each proposal in accordance with the stated criteria listed above. Columbia Housing will determine one or more respondents that will be shortlisted based on the overall combined score of all evaluation panel members.

The shortlisted firms may be invited to a Zoom interview at the sole discretion of Columbia Housing. The purpose of the interview will be to clarify any sections of the proposal and answer any questions from the evaluation committee.

PART V – GENERAL INFORMATION

5.1 WOMEN, MINORITY AND SMALL BUSINESS ENTERPRISE

Columbia Housing has adopted a plan for increasing W/M/SBE utilization opportunities. Under this plan, Columbia Housing has established a goal of 30% participation of Women, Minority and Small Business enterprises (W/M/SBE) in all contracts.

Columbia Housing encourages W/M/SBE firms to respond to this solicitation and further encourages prime contractors to provide meaningful opportunities for participation of qualified W/M/SBE firms or individuals participation in this solicitation.

5.2 CONFLICT OF INTEREST

a. The respondent's warrant that to the best of their knowledge and belief, and except as otherwise disclosed it does not have any organizational conflict of interest. Conflict of interest is defined as a situation in which the nature of work under this solicitation and the firm's organizational, financial, contractual or other interests are such that:

- i. Respondents may have an unfair competitive advantage; or
- ii. The respondent's objectivity in performing the work solicited may be impaired. In the event the respondent has an organizational conflict of interest as defined herein, the respondents shall disclose such conflict of interest fully in the proposal submission.

b. The respondents agree that if, after award he, she or it, discovers an organizational conflict of interest with respect to this solicitation, he, she or it, shall make an immediate and full disclosure in writing to Columbia Housing that shall include a description of the action, which the respondents has taken or intends to take to eliminate or neutralize the conflict. Columbia Housing may, however, disqualify the respondents or if a contract has been entered into with the respondents, terminate said contract, at its sole discretion.

c. In the event the respondents were aware of an organizational conflict of interest before the award of a contract and intentionally did not disclose the conflict to Columbia Housing, Columbia Housing may disqualify the respondents.

d. The provisions of Section 6.1 shall be included in all subcontracts or other agreements wherein the work to be performed is similar to the service provided by the respondents. The respondents shall include in such subcontracts and other such agreements any necessary provisions to eliminate or neutralize conflicts of interest.

e. No member of or delegate to the U.S. Congress or Resident Commissioner or Resident Advisor to the Board of Commissioners, shall be allowed to share in any part of the contract awarded under this solicitation or to any benefit that may arise therefrom. This provision shall be construed to extend to any contract made with the successful respondents.

f. No member, officer, or employee of Columbia Housing, no member of the governing body of the locality in which the project is situated, no member of the governing body in which Columbia Housing 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 any contract or the proceeds thereof resulting from this solicitation.

g. No member, officer or employee of the respondents selected to perform the services described above shall, during the term of their contract, or for one year thereafter, have any interest direct or indirect, in any contract that they are responsible for procuring, managing or overseeing on in the proceeds of any such contract.

5.3 COST OF PROPOSAL

All costs incurred, directly or indirectly, in response to this proposal shall be the sole responsibility of and shall be borne by the respondents.

5.4 AWARDS

A contract shall be awarded in accordance with the terms and conditions of this RFQ. Columbia Housing reserves the right to negotiate and award any element of this RFQ, to reject any or all proposals or to waive any minor irregularities or technicalities in proposals received.

5.5 PROPOSAL TABULATIONS/NOTIFICATION

After the award is made, a list of firms submitting proposals will be posted to Columbia Housing's website. Each unsuccessful firm will be notified in writing promptly upon award. The notice shall identify the selected Consultant.

5.6 FORM OF PURCHASE

The acceptance of the proposed firm's offer for the services specified herein shall be made by execution of a duly authorized contract prepared by Columbia Housing.

5.7 GOVERNMENT RESTRICTIONS

In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the goods or services offered, it shall be the responsibility of the successful firm to immediately notify Columbia Housing in writing specifying the regulation which requires alteration. Columbia Housing reserves the right to accept any such alteration, including any reasonable price adjustments occasioned thereby, or to cancel the contract at no expense to Columbia Housing.

5.8 NONCONFORMANCE TO CONDITIONS/SPECIFICATIONS/SCOPE OF SERVICES

Services will be inspected for compliance with specifications. Services not conforming to specifications will not be accepted. Services not provided in accordance with the Scope of Services may result in the firm being found in default. In the event of default all procurement costs may be charged against the firm.

5.9 ASSIGNMENT OR TRANSFER

The successful firm shall not assign or transfer any interest in the contract, in whole or part, without written approval of Columbia Housing. Claims for sums of money due, or to become due from Columbia Housing pursuant to the contract may be assigned to a bank, trust company or other financial institution. Columbia Housing is hereby expressly relieved and absolved of any and all liability in the event a purported assignment or subcontracting of the contract is attempted in the absence of the firm obtaining Columbia Housing's prior written consent.

5.10 AVAILABILITY OF RECORDS

The Comptroller General of the United States, the Department of Housing and Urban Development (HUD), Columbia Housing and any duly authorized representative of each, shall have full and free access to, and the right to audit and to make excerpts and transcripts from, any and all pertinent books, records, documents, invoices papers and the like, of the vendor, or in the possession of the firm, which shall relate to, or concern the performance of the contract.

5.11 PATENTS – LICENSES AND ROYALTIES

The successful firm shall indemnify and save harmless Columbia Housing, their employees and consultants from liability of any kind, including cost and expenses for or on account of any copyrighted, patented, or not patented invention, process or article manufactured or used in the performance of the contract, including its use by Columbia Housing. If the vendor uses any design, device or material covered by letters, patent or copyright, it is mutually agreed and understood that the proposal prices shall include all royalties or cost arising from the use of such design, device or materials involved in the work. Further all residual right to Patents, Licenses and Royalties (e.g., software and license to sue same purchased) shall revert to Columbia Housing at the end of the Agreement.

5.12 PERMITS AND LICENSES

The successful firm shall obtain all permits and licenses that are required for performing its work. The firm shall pay all related fees and costs in connection with required permits and licenses. Proof of ownership shall be made on all software used in the execution of the contract. The firm will hold Columbia Housing harmless for any violation of software licensing resulting from breaches by employees, owners and agents of the firm.

5.13 TAXES

The successful firm is responsible for all state and federal payroll and/or social security taxes. The firm shall hold Columbia Housing harmless in every respect against tax liability.

5.14 ADVERTISING

In submitting a proposal, the firm and their consultants agree not to use the results as a part of any commercial advertising.

5.15 INSURANCE

a. **Coverage.** The selected firm shall maintain at its expense during the term of the Contract the following insurance.

(1) Worker's Compensation Employer's Liability in the amount of \$500,000 each accident; \$500,000 each disease; and \$500,000 for each disease/each employee.

(2) Automobile Liability Insurance (covering all owned, hired and non-owned vehicles with personal and property protection insurance including residual liability insurance under Georgia No Fault Insurance Law) in an amount not less than \$100,000 per occurrence and \$300,000 aggregate.

(3) Errors and Omissions Insurance in the amount of \$1 million.

(4) Professional Liability Insurance in the amount of \$1 million.

(5) General Liability Insurance in the amount of \$500,000 per occurrence and \$500,000 aggregate.

Columbia Housing shall be named as additional insured on all policies.

b. **Waiver.** The selected firm shall not hold Columbia Housing liable for any personal injury incurred by their respective employees, agents or consultants, contractors or subcontractors while working on these projects. The firm agrees to hold Columbia Housing harmless from any such claim by its employees, agents, consultants, contractors or subcontractors, unless a Court having jurisdiction finds there is gross negligence of an employee of Columbia Housing while acting within the scope of their employment.

c. **Qualification.** The insurance company covering the firm must be licensed to do business in the State of South Carolina and have a Best's Guide rating of "A+" or higher.

5.16 STANDARDS OF CONDUCT

The successful firm shall be responsible for maintaining satisfactory standards of its employees' competence, conduct, courtesy, appearance, honesty, and integrity. It shall be responsible for taking such disciplinary action with respect to any of its employees as may be necessary.

5.17 REMOVAL OF EMPLOYEES

Columbia Housing may request the successful firms to immediately remove from assignment to Columbia Housing and/or dismiss any employee found unfit to perform duties due to one or more of the following reasons:

5.17.1 Neglect of Duty.

5.17.2 Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions or fighting.

5.17.3 Theft, vandalism, immoral conduct or any other criminal action.

5.17.4 Selling, consuming, possessing, or being under the influence of intoxicants, including alcohol or illegal substances while on assignment at Columbia Housing.

5.18 SUPERVISION

The successful firm shall provide adequate competent supervision at all times during the performance of the contract. To that effect, a qualified consultant and one or more alternates shall be designated in writing to Columbia Housing prior to contract start. The firm or its designated representative shall be readily available to meet with Columbia Housing personnel. The successful firm shall provide the telephone numbers where its representative(s) can be reached.

5.19 PERFORMANCE EVALUATION MEETING

The selected firm shall be readily available to meet with representatives of Columbia Housing as necessary during the term of the contract. A mutual effort will be made to resolve any and all performance problems identified at these meetings.

5.20 DISPUTES

- a. **Issues Causing Protest.** Any respondents which dispute the reasonableness, necessity, or competitiveness, of the terms and conditions of this solicitation or who has been adversely affected by a decision concerning a notice of intended or actual award, may file a written notice of protest with the Columbia Housing's Chief Executive Officer.
- b. **Filing the Protest.** The respondents must first advise Columbia Housing's SVP of Development in writing within 10 days after receipt of the bid solicitation or intended or actual notice of award of his intent to file a formal written notice.
- c. **Content of Formal Written Notice.** The formal written notice should be printed, typewritten, or otherwise duplicated in legible form. The formal written notice of protest should contain the information that follows:
 - (1) The name and address of the respondent filing the protest and an explanation of how his substantial interests have been affected by the bid solicitation or by Columbia Housing's notice of intended or actual award.
 - (2) A statement of how and when the respondents filing the protest received notice of the bid solicitation or notice of intended or actual award.
 - (3) A statement of all issues of disputed material fact. If there are none, the protest must so indicate.
 - (4) A concise statement of the ultimate facts alleged, as well as Columbia Housing's policies, which entitle the Respondents filing the protest to relief.
 - (5) A demand for relief the Respondents deems they are entitled.
 - (6) Any other information, which the Respondents contends, is material.
- d. **Response to Protest.** Upon receipt of a timely filed Notice of Protest and meeting the above requirements, the solicitation process, or award process will be stopped until the protest is resolved. The Columbia Housing Chief Executive Officer may set forth in writing particular facts and circumstances which require continuance of the solicitation process on an emergency without the above-mentioned delay in order to avoid material increased costs or immediate or serious danger to health, safety or welfare. This written documentation will specifically detail the facts underlying the Chief Executive Officer's decision and will constitute final agency action.
- e. **Informal Resolution.** Upon receipt of the formal written notice of protest or intent to protest, the Chief Development Officer will attempt to resolve the protest on an informal basis. The Chief Development Officer will have ten days after receipt of the formal written protest to resolve it through mutual agreement. If the protest is not resolved by mutual agreement within the required time, the formal written protest will be referred to the CEO.
- f. **Resolution.** The CEO may request such information pertaining to the matter, as he/she deems appropriate. Within thirty days of the date that the formal written protest is referred to him/her, the CEO will notify the Respondents making the protest of his/her decision.

5.21 FEDERAL, STATE AND LOCAL REPORTING COMPLIANCE

The firm shall provide such financial and programmatic information as required by Columbia Housing to comply with all Federal, State and local law reporting requirements.

5.22 NONDISCRIMINATION

The firm agrees that it will abide by Federal, State and Local Laws, and City ordinances incorporated by reference herein.

5.23 SECTION 3 CLAUSE

Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate or cause to be incorporated a "Section 3 Clause" in all contracts for work in connection with a Section 3 covered development. All proposals must also include a Compliance Plan to include submittal of reports applicable to Section 3 requirements.

5.24 PROJECT PERSONNEL

Except as formally approved by Columbia Housing, the key personnel identified in the accepted proposal shall be the individuals who will actually complete the work, at the proposed levels of effort. Changes in staffing must be proposed in writing to Columbia Housing and approved.

5.25 PAYMENT

To the extent required and pursuant to the schedule of deliverables in accordance with the final Development Agreement negotiated by the parties Columbia Housing shall make periodic payments for services provided as required under its agreement with the Developers.

5.26 NOTICES

All written notices required to be given by either party under the terms of the contract(s) resulting from the contract award shall be addressed to the firm at their legal business residence as given in the contract. Written notices to Columbia Housing shall be addressed as provided in the contract.

5.27 CANCELLATION

Irrespective of any default hereunder Columbia Housing may also at any time, at its discretion, cancel the contract in whole or in part. In the event of cancellation, the Firm shall be entitled to receive equitable compensation for all work completed and accepted prior to such termination or cancellation as shall be indicated in the contract.

5.28 LAWS

The laws of the State of South Carolina and applicable federal law shall govern the contract.

5.29 CONTRACT DOCUMENTS

Written contract documents will be prepared by Columbia Housing. Modifications may be adopted based on final negotiations and specific requirements of the contract under this particular RFQ.

5.30 TRAVEL

All travel and miscellaneous expenses will be borne by the firm.

5.31 CONTRACT AWARD

The Contract as described in this document shall be subject to the approval of the Columbia Housing Board of Commissioners.

ATTACHMENTS

1. Fee Proposal Form

REQUIRED FORMS

1. Acknowledgement of Addenda
2. Non-Collusive Affidavit
3. Piggy-back Clause Authorization
4. HUD 50071 Certification of Payments to Influence Federal Transactions
5. HUD 5369A – Representations, Certifications and Other Statements of Bidders
6. HUD 5369B – Instructions to Offerors Non-Construction
7. HUD 5370C – General Conditional for Non-Construction Contracts

**REQUEST FOR QUALIFICATIONS
STRATEGIC PLANNING CONSULTANT**

FEE PROPOSAL FORM

Note – The resulting contract for this solicitation is anticipated to be a fixed firm price for all services as totaled in the detailed costs below.

A, Labor Costs

Personnel Classification	Hourly Rate	Proposed Number of Hours	Total
Subtotal Labor			

B. Direct Costs

Item	Per Occurrence	Total
Travel		
Other:		
Other:		
Subtotal Direct Costs		

C. Profit and Overhead

Item	Percent	Amount
Overhead		
Profit		
Subtotal O&P		

TOTAL PROJECT COSTS	\$
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Offeror: _____ Date: _____

Signature: _____ Title: _____

**COLUMBIA HOUSING
REQUEST FOR QUALIFICATIONS
DEVELOPMENT PARTNER(S)**

ACKNOWLEDGEMENT OF ADDENDA

The undersigned offeror hereby acknowledges that they have checked the Columbia Housing website: <https://www.columbiahousing.org/> for all addenda issued related to the Request for Qualifications, Development Partner(s)

Addendum Number: _____ Date Received: _____

Addendum Number: _____ Date Received: _____

Addendum Number: _____ Date Received: _____

Name of Firm: _____

Name of Authorized Representative: _____

Signature: _____ Date: _____

FORM OF NON-COLLUSIVE AFFIDAVIT

AFFIDAVIT

(Prime Bidder)

State of (_____)ss.

County of (_____)

being first duly sworn deposes and says:

That he is _____
(a partner or officer of the firm of, etc.)

that party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or of that of

City of Columbia, South Carolina or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Signature of:

Bidder, if the bidder is an individual

Partner, if the bidder is a partnership

Officer, if the bidder is a corporation

Subscribed and sworn to before me

this _____ day of _____ 20_____.

My Commission expires _____ 2_____.

Signature: _____

PIGGYBACK CLAUSE FORM

Piggybacking is when an existing contract is used by another governmental agency to acquire the same commodities or services at the same or lower price from another public entity contract.

Columbia Housing shall permit Piggybacking on all contracts resulting from a formal solicitation including a Competitive Bid; a Request for Proposals and/or a Request for Qualifications under the following provisions.

For the term of the contract period resulting from this solicitation and any mutually agreed upon extensions pursuant to this request for goods and/or services, at the option of the vendor, other Public Housing Authorities, any public corporation or agency, including any town, city, county, or state agency, may purchase or contract for the same goods and/or services identified upon the same terms and conditions or such terms and conditions as may be negotiated with the vendor pursuant to the applicable joint, permissive and interstate cooperative procurement statutes of the location in which such public corporation or agency is located.

Acceptance or rejection of this clause will not affect the outcome of this solicitation.

_____ (Initial) Vendor hereby grants the Piggyback option for this solicitation.

_____ (Initial) Vendor does not grant the Piggyback option for this solicitation.

Vendor: _____

Name of Authorized Representative: _____

Signature: _____ Date: _____

Certification of Payments to Influence Federal Transactions

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

OMB Approval No. 2577-0157 (Exp. 01/31/2017)

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

**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. 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.

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;

- (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.

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.

(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:]

ACKNOWLEDGEMENT:

Authorized Representative: _____ Title: _____

Signature: _____ Date: _____

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. 3/31/2020)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

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 \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$150,000

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 III, 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
 - (ii) 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.

(ii) 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.

(ii) 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.

16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. 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.

18. 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.

19. 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.

20. Liens

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

21. 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 135, 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 135 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 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, 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 135. 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 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. 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.

ACKNOWLEDGEMENT:

Authorized Representative: _____ **Title:** _____

Signature: _____ **Date:** _____