



# PIERCE COUNTY HOUSING AUTHORITY

603 South Polk Street, Tacoma, WA 98444 | 253-620-5400

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## SEC18-23-01

Competitive Proposal | Federal Funding | Negotiated Sale

# BIDDERS LIST FOR THE NEGOTIATED SALE OF LOW-INCOME PUBLIC HOUSING (LIPH) SCATTERED SITES

Request for Proposals

|                          |                   |
|--------------------------|-------------------|
| Pre-Decision Conference: | None              |
| Proposals Due:           | Open Until Closed |
| Award Selection:         | Ongoing; Multiple |

ISSUE DATE: February 10<sup>th</sup>, 2023

## Project Team

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**PROJECT:** Bidders List for the Negotiated Sale of Low-Income Public Housing (LIPH) Scattered Sites  
SEC18-23-01

**OWNER:** Pierce County Housing Authority  
603 Polk St S,  
Tacoma, WA, 98444

**CONTACT:** Sean McKenna  
Director of Project Management  
253-620-5450  
[smckenna@pchawa.org](mailto:smckenna@pchawa.org)

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DATE: February 10<sup>th</sup>, 2023

PROJECT TITLE: Bid List for the Sale of LIPH Homes

DELIVERY DUE DATE/TIME: Open until closed with 30 days' notice.

TO: Interested Parties

The Pierce County Housing Authority (PCHA) is issuing a Request for Proposals (RFP) to create a Bidders List composed of recognized organizations with a proven history of furthering affordable housing and low-income homeownership, that have the means and desire to purchase multiple offerings of the 120 single-family homes and two (2) duplex homes currently comprising PCHA's remaining Low Income Public Housing portfolio. The homes will become available for sale as PCHA locates suitable replacement homes for the current tenants and assists them in move-out. PCHA expects to offer the houses in groups of three or more as they became available, and will notify all approved bidders with specific bid deadlines. PCHA will have sole discretion on the total number of houses to be made available and the terms of sale.

Attention is directed to the enclosed instructions and specifications that are made a part of this document. A copy of the entire RFP is also available at the Pierce County Housing Authority Web Page [www.pchawa.org](http://www.pchawa.org) under the "Business" tab.

All requests for additional information should be put into writing and directed to Sean McKenna, Director of Project Management, Pierce County Housing Authority by email at: [smckenna@pchawa.org](mailto:smckenna@pchawa.org). By submitting a proposal, each offeror is affirming their commitment to comply with the Laws of the State of Washington, governing Fair Employment Practices and with all rules and regulations of the U.S. Department of Housing and Urban Development (HUD), governing Equal Employment Opportunities and Non-discriminatory Practices. PCHA reserves the right to reject any and all proposals or to waive any informality in the selection process. The properties are funded in whole or in part with HUD funds and requires that all proposers must comply with Section 3 of the HUD Act of 1968.

The Pierce County Housing Authority (PCHA) is a public body, corporate and politic, created by Pierce County's Board of Supervisors (now County Council) in 1978 pursuant to State statute (RCW35.82). The mission of the Pierce County Housing Authority (the Authority) is to provide safe, decent, affordable housing and economic opportunity, free from discrimination.

The governing body of the Housing Authority is the Board of Commissioners. The Commissioners elect from among themselves a chair and a vice chair. The Authority Board regular meetings occur the last Wednesday of each month, currently at 3:30 PM PST. The Board is responsible for hiring an Executive Director, who also serves as Secretary to the Board. The Executive Director administers the operations of the Authority and implements the policies established by the Board.

PCHA currently operates 124 Low-Income Public Housing units; 20 Units of USDA/RD Housing, administers approximately 2,946 Section 8/HCV program vouchers, and operates an Enterprise Portfolio consisting of approximately 670 units. Additional grants are received periodically for the Renovation and Modernization of existing facilities and in support of our Family Self Sufficiency Programs. Currently, the Pierce County Housing Authority employs 39 individuals.

Pierce County Housing Authority acquired its current stock of Public Housing units through the 1980's and 1990's. It is comprised of single-family homes. They are primarily located in Spanaway and Parkland, with small clusters in Bonney Lake, Elk Plain, Graham, and on the Peninsula. The households currently residing in PCHA's LIPH units have a rental agreement with PCHA, whereby they pay approximately 30% of their income to rent, whatever their income may be, up to the full amount of Fair Market Rent for the property. For example, a household making \$2,000 in income for a month would pay approximately \$600 per month, and a household with \$0 in income would pay \$0 in rent, regardless of the size of the home. However, residents are still required to do regular upkeep on their properties, pay utilities, and maintain their yards, which often presents a financial and physical challenge for many of our LIPH residents. Compounding this, as the rental charges on these units are income-based, PCHA is required to fund both regular and non-routine maintenance through federal grants. Reductions in the funding allocation for the LIPH program at the federal level have resulted in a backlog of unfunded maintenance in LIPH portfolios across the country. The LIPH model – and especially the LIPH Scattered Site Model - has been found ineffective, inefficient, and ultimately counterproductive in providing safe, decent, sanitary, and dignified housing for its residents.

Due to the vast geographical distance that separates some of these homes, the financial burden of serving maintenance needs for a large number of aging houses, and the burden on residents to upkeep these properties without proper resources or support, PCHA submitted an application to the Department of Housing and Urban Development Special Application Center to perform a Section 18 Disposition. This application was approved on January 27th, 2023.

As part of this Section 18 Disposition, all residents living in LIPH houses will be transferred onto a Tenant Protection Voucher, which preserves their 30% income calculation for rental housing subsidies.

They will be assisted in finding, touring, and applying for new rental housing by a Relocation Specialist at PCHA, and on top of their regular monthly subsidy, PCHA will also provide funding for application fees, administrative fees, pet deposits, security deposits, and will contract with moving services free of charge to our LIPH participants. No resident will be forced to face a financial burden through the repositioning process. Funding for this program is allowed by HUD through the easing of certain restrictions upon application approval. All residents are expected to be relocated by the end of 2025. Homes will only be offered for sale when the resident has been fully relocated.

The sale of the homes will occur in several steps. The first step in the repositioning process will be to offer “first right of refusal” for the home to the LIPH participant household currently residing in it. Some participants have graduated through various career training and financial education programs, and may have the capacity to qualify for a traditional mortgage with outside assistance programs. However, PCHA will make every effort to work with all families currently in the homes to see what they qualify for, and if buying their home is a possibility.

If the current resident of the home is unwilling or unable to buy their home, PCHA will reach out to other LIPH participants and participants in PCHA’s Family Self Sufficiency (FSS) program to discuss their interest and capability of purchasing the property (FSS is a program designed to increase a family’s financial stability, and provides job training, placement, and financial literacy workshops. Participation in the program creates an escrow account, which can be used to buy a home when the participant graduates. For more information, please visit <https://www.pchawa.org/housing/homeownership-fss>).

In order to make sure that the housing remains in service of low-income residents of Pierce County, the next step of the process is to offer the home for sale to the members of what PCHA refers to as a “Negotiated Sale Bidders List”. This RFP is to compile the Negotiated Sale Bidders List, as described in the following section.

For more information on the PCHA Disposition process, please visit [pchawa.org/community/section-18](https://www.pchawa.org/community/section-18).

This RFP is to create a limited Bidders List of organizations with proven experience and commitment to the creation and preservation of affordable housing in Pierce County. There are up to 120 single family homes and 2 duplexes on lots of varying size, located regionally across Pierce County, that may be made available for purchase from 2023-2026. These homes are all 3-4 bedroom units. The properties must be purchased in as-is condition at vacate, for Fair Market Value as determined by a 2022 property appraisal provided to HUD in PCHA's Section 18 Disposition application.

Pierce County Housing Authority will prioritize selling these homes to current qualified residents and/or HUD Housing Choice Voucher Family Self Sufficiency (HCV FSS) Program participants whenever possible<sup>1</sup>, as described in **Background Information** above. However, PCHA understands that it is not currently a financial reality for many LIPH occupants or HCV FSS participants to purchase these homes, especially when considering their deferred maintenance needs. So that these homes may remain in the county's affordable housing stock, PCHA intends to sell those homes unable to be purchased to FSS or LIPH participants to organizations on the Bidders List who have the demonstrated capacity to both purchase these units and keep them affordable for residents of Pierce County. If there are no bids from the Bidders List, only then will the homes be offered on the open market for Public Bid.

The Bidders List will be compiled from respondents to this RFP who meet the criteria detailed in the **Proposal Requirements** below. The Bidders List will be utilized to contact organizations when property become available. When a property or group of properties become available, every member of the Bidders List will be contacted and asked if they are interested in attending a scheduled walk-through, and/or in placing a bid. No organization outside the Bidders List will be informed of the property's availability or be able to purchase a property at this stage. There is no obligation to view or bid on any or every parcel from being a member of the Bidders List. Bids must meet HUD's definition of Fair Market Value. Bids below FMV may not be accepted, but all reasonable bids will be considered. Organizations on the Bidders List are allowed to place a bid above the Fair Market Value to secure desired properties if they so choose. These bids will be evaluated based on their merits, with offer review dates limiting the time PCHA will keep units available for sale to organization on the Bidders List.

If more than one organization offers to purchase a property or group of properties, PCHA will select the offer that best meets PCHA's mission and business needs. In the event that there are two or more organizations that place bids of equal monetary value and substantially similar sale conditions, those organizations will be asked for a best and final offer. This procedure will follow PCHA's written Procurement Policy.

If an organization's bid is selected for a property or group of properties, they must close be able to close escrow within 90 days from Mutual Agreement of sale terms. No extensions are guaranteed and

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<sup>1</sup> For more information on PCHA's programs to assist our voucher-holders in achieving financial stability and become homeowners, please visit <https://www.pchawa.org/housing/homeownership-fss>. For detailed queries, contact our Administrative Coordinator, Riley Guerrero, at [rguerrero@pchawa.org](mailto:rguerrero@pchawa.org)

may be granted only at the sole discretion of PCHA. PCHA reserves the authority to re-offer the properties to other bidders on the Bidders List in the event that the 90-day period ends without a closed sale.

In order to transfer title clear of encumbrances or affordability covenants beyond closing, PCHA must first vacate units through the relocation of existing tenants. PCHA must then obtain and record a HUD-approved Release of Declaration of Trust prior to closing any transaction. PCHA will require the selected organization to have the capacity to provide full funding at closing of escrow, with selected organization thereby receiving 'fee simple' title at closing.



### THRESHOLD REQUIREMENTS

- W9:** The organization must provide its most recent Form W9
- Proof of Funds:** The organization must have the appropriate cash-on-hand or suitable material resources to demonstrate that they are able to purchase at least 3 properties (totaling \$1,125,000, as a typical price is \$375,000 per properties) to enter the Bidders List.
  - The homes are anticipated but not required to be offered to organizations on the Bidders List in groups of 3-5, and are to be sold in as-is condition.
- Affordability Preservation Agreement:** The organization must sign the attached Affordability Preservation Agreement confirming that all properties sold from PCHA to the Organization as the result of this Bidders List will remain affordable for families earning less than 90% of the area median income adjusted by family size.
- Required Submission Documents:**
  - Organization Profile
  - Non-Collusion Affidavit (must be notarized)
  - Disclosure of Conflict of Interest
  - HUD 5369-C
  - Declaration of Accuracy

### FUNDING

- Proof of Funds:** The organization must provide “proof of funds” documentation pertaining to all funds intended for use in the acquisition of Negotiated Sale properties.
- Capacity to Obtain Additional Funding:** Proposals must include the plan and method to obtain additional funding for purchase of additional homes via loan, donation, grant, or other source. Agencies with plans to obtain funding, but who do not meet the threshold requirement to purchase at least three homes, may not be considered. This description should be no more than two pages, 12pt Times New Roman font.

### TIMELY CLOSE

- Description of Previous Real Estate Transactions:** So that any sale may close not later than 90 days from Mutual Agreement on sale terms, PCHA will require interested organization provide proof of capacity to transact purchase in a timely manner. Please write a short description on the organization’s experience with closing real estate transactions. Include any pertinent dates and financial information to demonstrate capacity to close large real estate transactions on strict timetables. This description should be no more than one page using 12pt Times New Roman font.

## AFFORDABLE HOUSING PROGRAM

- ❑ **Detailed Plan for Affordable Homeownership:** The organization must supply a detailed description of its history, qualifications, and its process for creating and maintaining affordable housing/homeownership, described here as homeownership for families making at or below 90% of Area Median Income (AMI), or \$91,620 for a family of four in Pierce County (per WSHFC MTSP-Income and Rent Limits table effective 04/18/2022). This description must be two to three pages only, 12pt Times New Roman font.
- ❑ **List of Current Housing:** The organization must provide a list of current affordable homeownership housing it has created/operates over the last two years in Pierce County and/or in the state of Washington. Please include the location, the type of unit, the number of units in the project, if applicable, and the current occupancy rate.
- ❑ **Pipeline of Eligible Residents:** The organization must demonstrate a viable pipeline of currently available or eligible purchasers or applicants meeting this affordable housing homeownership requirement, and their process of qualification and mentorship. This description should be no more than one page, 12pt Times New Roman font.

## PERSONNEL AND REFERENCES

- ❑ **References:** Proposals should include 2-3 references from agencies for which the individual/firm has completed similar services, or from residents currently residing in its affordable housing that can speak to the organization's services and acquisition process. It may additionally include other state and local agencies. Appropriate contact information must be included for references (name, title, organization, phone number, email address).
- ❑ **List of Staff:** Please include the names, current positions, job descriptions, and time-at-agency of all staff who will be involved in the negotiated sale process. Full resumes are preferred.

To submit your proposal, please email Sean McKenna at [smckenna@pchawa.org](mailto:smckenna@pchawa.org) with the subject line "SEC18-23-01 Negotiated Sale Bidders List Proposal – Your Company Name". Please clearly label all attachments with the **Bolded** title provided above.

Alternatively, please send your proposal by mail to the following address:

Pierce County Housing Authority  
Attn: Sean McKenna  
603 Polk St S  
Tacoma, WA, 98444

| THRESHOLD REQUIREMENTS  |   |   |   |
|---|---|---|---|
| Organizations that do not meet the following requirements will be eliminated and will not be scored |   |   |   |
| W9 Provided   | Proof of funds demonstrating capacity for acquisition of homes              | Required Submission Documents Signed and Notarized where applicable | Organization has provided signed and Notarized Affordability Preservation Agreement   |
| SCORED RUBRIC   |   |   |   |
| Organizations must receive a score of 60 or above to enter the Bidders List                         |   |   |   |
| Topic   | Criteria  | Weight  | Description   |
| Funding   | Size of Allocated Funding   | 10  | Funding will be graded on the following scale:<br>\$1,125,000-\$2,999,999.99: 3 Points<br>\$3,000,000 - \$4,999,999.99: 6.5 Points<br>\$5,000,000+ : 10 points  |
|   | Capacity to Obtain Additional Funding                                       | 10  | Capacity to obtain additional funding will be scored on amount of funding anticipated, strategic reasoning, and history of securing funding of similar types.<br>Length: One to two pages, 12pt Times New Roman Font  |
| Timely Close  | Description of Previous Real Estate Transactions                            | 5   | This description will be scored on the number of transactions, the duration of the transactions, the organization's history with similar real estate sales, and the size of transactions.<br>Length: One page, 12pt Times New Roman Font  |
| Affordable Housing Program  | Detailed Plan for the Creation and Preservation of Affordable Homeownership | 40  | This description will be scored on the depth, history, qualifications, scope, and program activities of the organization, and its plan and restrictions for the parcels that it seeks to purchase to be kept affordable.<br>Length: Two to three pages, 12pt Times New Roman Font |
|   | List of Current Affordable Housing/On-Line in the Last Two Years            | 10  | This list will be scored on the total number of affordable units, the type of units, and the geographic distribution of units.  |
|   | Pipeline of Eligible Residents  | 10  | This description will be scored on the total number of eligible residents, the services provided, and its reasonability given the projected number of homes to purchase.<br>Length: one page, 12pt Times New Roman Font   |
| References  | References from Other Organizations/Residents                               | 10  | References must include description of similar transactions and the affordable housing program.<br>Two to three references required.  |
|   | List & Description of Relevant Staff  | 5   | The list and description of staff will be scored on the number and relevant experience of staff members, and on the team composition. Full resumes of staff are preferred.  |

**TOTAL POINTS:**

**100**



# **PIERCE COUNTY HOUSING AUTHORITY**

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## REQUIRED SUBMISSION DOCUMENTS FOR A REQUEST FOR PROPOSALS SOLICITATION RESPONSE



**PIERCE COUNTY HOUSING AUTHORITY**

603 South Polk Street, Tacoma, WA 98444 | 253-620-5400

**AFFORDABILITY PRESERVATION AGREEMENT**

Project SEC18-23-01

Issue Date: February 10<sup>th</sup>, 2023

STATE OF WASHINGTON

COUNTY OF \_\_\_\_\_

By signing this document, the below organization guarantees that any unit it purchases as a part of this Negotiated Sale Bidders List will be made affordable for residents of Pierce County with an income at or below 90% of the Yearly Area Median Income, adjusted for family size. Affordability is defined as spending no more than 30% of one's total household income toward housing.

The below organization accepts responsibility for the creation and maintenance of affordability of any property purchased.

**NOTARIZED:**

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

Notary Public in and for the State of Washington \_\_\_\_\_

Residing at: \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

on Behalf of

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



# PIERCE COUNTY HOUSING AUTHORITY

603 South Polk Street, Tacoma, WA 98444 | 253-620-5400

## Organization Profile

Project: SEC18-23-01

Issue Date: February 10<sup>th</sup>, 2023

All organizations, both primary contractors and subcontractors, who intend to do work in response to this RFP must submit the following Organizational Profile for a proposal to be considered completed.

I am submitting this profile as the:

- Prime Contractor  Subcontractor

1. Full Legal Name of Firm: \_\_\_\_\_
2. Mailing Address: \_\_\_\_\_  
\_\_\_\_\_
3. Please select the appropriate box below:
  - Individual/Sole Proprietor
  - Corporation
  - Limited Liability Corporation (LLC) Tax Classification: \_\_\_\_ (D=Disregarded Entity, C=Corporation, P=Partnership)
  - Other (Specify) \_\_\_\_\_
4. Street Address: \_\_\_\_\_  
(if different) \_\_\_\_\_
5. Primary Contact/Title: \_\_\_\_\_
6. Email Address: \_\_\_\_\_
7. Telephone Number: \_\_\_\_\_
8. Entity Federal Tax ID #: \_\_\_\_\_
9. UBI #: \_\_\_\_\_
10. DUNS #: \_\_\_\_\_
11. WA State License Type: \_\_\_\_\_ WA License # \_\_\_\_\_
12. Year Firm Established: \_\_\_\_\_
13. Former Name or Parent Company, if Applicable: \_\_\_\_\_

15. Identify the Principals/Partners in the Firm:

| Name | Title | % Ownership |
|------|-------|-------------|
|      |       |             |
|      |       |             |
|      |       |             |

16. Identify the individual(s) who will act as project manager and any other supervisory personnel that will work on the project:

| Name | Title | % Ownership |
|------|-------|-------------|
|      |       |             |
|      |       |             |
|      |       |             |

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

on Behalf of

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

17. Proposer Diversity Statement: Please check all that apply and give the percentage of each category.

Public-Held Corporation                       Government Agency                       Non-Profit Organization

Resident-Owned \_\_\_\_\_ %     
  Hasidic Jew-Owned \_\_\_\_\_ %     
  Black-Owned \_\_\_\_\_ %     
  Hispanic-Owned \_\_\_\_\_ %     
  Asian/Pacific Islander-Owned \_\_\_\_\_ %     
  Native American-Owned \_\_\_\_\_ %

Woman Owned (Non-MBE) \_\_\_\_\_ %     
  Woman-Owned (MBE) \_\_\_\_\_ %     
  Disabled Veteran Owned \_\_\_\_\_ %     
  Non-W/MBE Ownership \_\_\_\_\_ %     
  Other (Specify): \_\_\_\_\_ %

W/MBE Certification #: \_\_\_\_\_  
 Certified By: \_\_\_\_\_  
 Note: W/MBE certification is not a requirement of submitting a proposal. Only enter if available.

18. Worker’s Compensation Insurance Carrier: \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: MM/DD/YYYY \_\_\_\_\_

19. General Liability Insurance Carrier: \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: MM/DD/YYYY \_\_\_\_\_

20. Professional Liability Insurance Carrier: \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: MM/DD/YYYY \_\_\_\_\_

21. Has this firm or any principals ever been debarred from providing any services by the federal government, state government, the State of Washington, or any local government agency within or out of the State of Washington?  
 Yes     No

If Yes, please attach a full detailed explanation, including dates, circumstances, and current status.

22. Can this firm conduct virtual appearances, including reports, meetings, conferences, briefings, etc. using software that allows for screen sharing, as well as video and audio conferencing, and securely sign and transmit documents electronically?  
 Yes     No

23. The undersigned proposer hereby states that by completing and submitting this form they are verifying that all information provided herein is, to the best of their knowledge, true and accurate, and agrees that if PCHA discovers any information entered herein is false, that shall entitle PCHA to withdraw from consideration, not make an award to, or to cancel any award with the undersigned party.

|              |              |              |      |
|--------------|--------------|--------------|------|
| Signature    | on Behalf of | Organization | Date |
| Printed Name |              | Title        |      |



**PIERCE COUNTY HOUSING AUTHORITY**

603 South Polk Street, Tacoma, WA 98444 | 253-620-5400

Non-Collusion Affidavit  
Project: SEC18-23-01  
Issue Date: February 10<sup>th</sup>, 2023

STATE OF WASHINGTON

COUNTY OF \_\_\_\_\_

The undersigned, being first duly sworn on oath, says that the proposal herewith submitted is a genuine and not a sham or collusive proposal, or made in the interest or on behalf of any person not therein named; and (s)he further says that the said proposer has not directly or indirectly induced or solicited any other submitting party on the above work or supplies to put in a sham proposal, or any other person or corporation to refrain from submitting a proposal, and that said proposer has not in any manner sought by collusion to secure him/herself an advantage over any other submitting party or parties.

**Notarized:**

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_

Notary Public in and for the State of Washington \_\_\_\_\_

Residing at: \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

|              |       |              |              |
|--------------|-------|--------------|--------------|
| _____        | _____ | on Behalf of | _____        |
| Signature    | Date  |              | Organization |
| _____        |       |              | _____        |
| Printed Name |       |              | Title        |





# PIERCE COUNTY HOUSING AUTHORITY

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## Disclosure of Conflict of Interest

Project: SEC18-23-01

Issue Date: February 10<sup>th</sup>, 2023

Please disclose any conflict of interest, or appearance of conflict of interest, in the form below. A conflict of interest includes:

- Immediate or extended family on the Pierce County Housing Authority Board of Commissioners
- Immediate or extended family on staff at PCHA in policy-making or procurement roles
- Any notable close relationship between members of the organization and PCHA staff or Commissioners
- Business ownership or financial interests that are shared by member(s) of the PCHA Board of Commissioners or staff
- Any situation in which award of the contract may result in an unfair competitive advantage
- Any situation in which the Contractor's objectivity in performing the contract work may be impaired.

| Conflict Type | Organization's Individual with Conflict | Individual's Title | PCHA's Individual with Conflict | Individual's Title | Conflict Explanation (if necessary) and Steps to Resolve |
|---------------|---|--------------------|---------------------------------|--------------------|--|
|               |   |                    |                                 |                    |  |
|               |   |                    |                                 |                    |  |
|               |   |                    |                                 |                    |  |
|               |   |                    |                                 |                    |  |

I, the Undersigned, declare that all known potential conflicts of interest have been disclosed above. If, at any time, a new conflict of interest comes to my attention, it will be immediately disclosed to PCHA for further review. I understand that if an undisclosed conflict of interest is discovered, the organization listed below is at risk of termination of award (if selected), and potentially debarment.

\_\_\_\_\_ on Behalf of \_\_\_\_\_  
 Signature Date Organization  
 \_\_\_\_\_  
 Printed Name Title

# Instructions to Offerors Non-Construction

## U.S. Department of Housing and Urban Development

### Office of Public and Indian Housing

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#### 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, offerers 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, offerers 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 offerer 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 offerer 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 offerer'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 offerer 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 protester.

## 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, or emailed to Sean McKenna at [smckenna@pchawa.org](mailto:smckenna@pchawa.org) with the Subject Line "SEC18-23-01 Proposal – Company Name. 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.

# Certifications and Representations of Offerors

## Non-Construction Contract

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

Public reporting burden for this collection of information is estimated to average 5 minutes 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.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offerors to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

### 1. Contingent Fee Representation and Agreement

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

- (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.

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

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

### 2. Small, Minority, Women-Owned Business Concern Representation

The bidder/offeror 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 small business concern. "Women-owned," as used in this provision, means a small 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 enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned 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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
  - (3) No attempt has been made or will be made by the bidder/ offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.
- (b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:
- (1) Is the person in the bidder/offeror'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/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror'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/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

#### **4. Organizational Conflicts of Interest Certification**

- (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 a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

- (i) Award of the contract may result in an unfair competitive advantage;
  - (ii) The Contractor's objectivity in performing the contract work may be impaired; or
  - (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.
- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of 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 HA, the HA may terminate the Contract for default.
- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

**5. Authorized Negotiators (RFPs only)**

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

|               |              |
|---------------|--------------|
| _____         | _____        |
| Name          | Title        |
| _____         | _____        |
| Email Address | Phone Number |
| _____         | _____        |
| Name          | Title        |
| _____         | _____        |
| Email Address | Phone Number |
| _____         | _____        |
| Name          | Title        |
| _____         | _____        |
| Email Address | Phone Number |

**6. Conflict of Interest**

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

**7. Offeror's Signature**

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

\_\_\_\_\_

Signature & Date:

\_\_\_\_\_

Typed or Printed Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

# 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 (excl. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number

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

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

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

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall

modify the contract accordingly.

- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

#### 3. Termination for Convenience and Default

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



been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.

- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

#### 4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions
- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
- (i) appeals under the clause titled Disputes;
  - (ii) litigation or settlement of claims arising from the performance of this contract; or,
  - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

#### 5. Rights in Data (Ownership and Proprietary Interest)

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

#### 6. Energy Efficiency

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

#### 7. Disputes

- (a) All disputes arising under or relating to this contract, *except for disputes arising under clauses contained in Section 111, Labor Standards Provisions*, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes

exception to such decision, the decision shall be final and conclusive.

- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

#### 8. Contract Termination; Debarment

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

#### 9. Assignment of Contract

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

#### 10. Certificate and Release

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

#### 11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
- (i) Award of the contract may result in an unfair competitive advantage; or
  - ( ) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in

writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.

- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

## 12. Inspection and Acceptance

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

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

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

## 13. Interest of Members of Congress

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

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

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

## 15. Limitation on Payments to Influence Certain Federal

## Transactions

- (a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract,

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

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

(b) Prohibition.

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

(v) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

- (a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.
- (b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
- (c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:
  - (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
  - (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:
  - (1) Providing any information not

specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

- (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
  - (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.
- (2) Professional and technical services.
- (a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-
    - (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
    - (i) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
  - (b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
  - (c) Requirements imposed by or pursuant to law as a condition for receiving a covered

Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

## 16. Equal Employment Opportunity

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

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The [contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements

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

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

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

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

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

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

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

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor

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

#### **17. Equal Opportunity for Workers with Disabilities**

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

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

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

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

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

5. The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Brail or large print versions of the notice, or posting a copy of the notice

at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller] , a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual know ledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be post ed in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

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

7. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

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

#### **18. Dissemination or Disclosure of Information**

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

#### **19. Contractor's Status**

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

## 20. Other Contractors

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

## 21. Liens

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

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

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

Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

## 23. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
  - (i) 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

