



REQUEST FOR PROPOSALS - RFQ – 2024-701

FEE DEVELOPER

MOON ROAD DEVELOPMENT

7590 Moon Road

Columbus, Georgia 31909

February 13, 2024

Dear Potential Offeror:

The Housing Authority of Columbus, Georgia is soliciting proposals for:

SOLICITATION TYPE: Request for Qualifications (RFQ) – 2024-701

DESCRIPTION: Fee Developer for
Moon Road Development

RFQ PACKAGE: RFQ Package Available from Housing Authority of
Columbus, Georgia at <https://www.columbushousing.org>
under the Do Business tab.

ISSUE DATE: February 13, 2024

PROPOSAL DUE DATE AND TIME: March 4, 2024, by 4:00 p.m. Eastern Time

PROPOSAL SUBMISSION PLACE: Bidsubmittals@columbushousing.org or
Housing Authority of Columbus, GA
1000 Wynnton Road
Columbus, GA 31906

DIRECT INQUIRIES TO: Housing Authority of Columbus, GA

Email: RFPupdates@columbushousing.org

Note: All inquiries must be submitted in writing by email no later than Monday, February 26, 2024, by 4:00 p.m. Eastern Time. Answers to all inquiries will be issued by Addendum to this RFQ and published at www.columbushousing.org under the “DO BUSINESS” tab.

All inquiries must be in writing. Violation of the foregoing may result in disqualification of Vendor to participate in this RFQ. No oral conversations or agreements with any officer, agent, or employee of HACG regarding this RFQ are authorized. Telephone inquiries will not be accepted.

HACG reserves the right to, and may, amend, modify, or cancel this RFQ without prior notice, at any time, at its sole discretion. If it becomes necessary to revise or supplement any part of this RFQ, vendors will be notified via Addenda. Please check website periodically to check for Addenda that may be added. Additionally, HACG reserves the right to increase, reduce, add, or delete any item to this solicitation as deemed necessary where it is consistent with HACG’s policies to do so.

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Request for Qualifications

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5. Financial Structure Objectives of HACG
6. Property Management
7. Community and Supportive Services
8. Submission Requirements
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11. General Information

Submission Format

Offerors have two options for proposal submissions.

Option 1 – Submission can be emailed using a Dropbox link to Bidsubmittals@columbushousing.org. Offerors must clearly coordinate proposal response information with each Submission Requirement item. Separate folders titled for each section. **Please reference RFQ Number: 2024-701 on submission.**

Option 2 – Offeror must assemble submissions in the order described below and submit a minimum of four (4) copies of proposals in 3-ring binders with tabs clearly identifying each section. Offerors must clearly coordinate proposal response information with each Submission Requirement item. **Please reference RFQ Number: 2024-701 on submission.**

For hand-delivery or delivery service:

The Housing Authority of Columbus, Georgia
Attn: Laura Johnson, Chief Real Estate Officer
1000 Wynnton Road
Columbus, GA 31906

Any proposal received after the due date and time will not be accepted and will be returned to the vendor unopened.

REQUEST FOR QUALIFICATIONS (RFQ) – 2024-701

1. INTRODUCTION

The Housing Authority of Columbus, Georgia (HACG) was created in 1938 and is a public body, both corporate and politic, governed by a seven-member Board of Commissioners appointed to terms by the Mayor of the Columbus Consolidated Government. Its mission is: “To provide more quality affordable housing in various areas of our community that offer opportunities for individuals and families to become self-sufficient and improve their quality of life.” HACG is one of the first of 39 HUD designated Moving To Work (MTW) agencies in the country. The MTW designation has propelled HACG to accomplish its mission by allowing for redevelopment and Rental Assistance Demonstration (RAD) conversion.

HACG has successfully implemented HUD modernization projects for its properties throughout the years; projects which have varied in complexity, budget size and schedule duration. HACG first initiated its development experience with a multi-phase, mixed finance and tax credit redevelopment program in 2003 with its successful HOPE VI award for the former Peabody Apartments (Ashley Station). This project was followed by multiple redevelopments at Baker Village (Arbor Pointe I and II and The Cottages), Chapman Homes (Patriot Pointe), Booker T. Washington (Columbus Commons), Chase Homes (The Banks at Mill Village), and Warm Springs Senior Village. In 2016, HACG as sole developer, implemented the RAD I program which included the rehabilitation of four (4) separate public housing communities (Wilson Homes, EJ Knight, Nicholson Terrace, and Farley Homes).

2. SUMMARY OF OBJECTIVES

The intention of this Request for Qualifications (RFQ) is to procure a qualified “Fee Developer” (herein after, Developer) to enter into a Redevelopment Agreement for the creation of a master-planned community on a 21.5-acre site currently owned by the Housing Authority of Columbus, Georgia (HACG) located 7390 Moon Road, 7400 Moon Road, 7590 Moon Road, 7588 Cooper Creek Road, and 7865 Cooper Creek Road, Columbus, GA. The overall development will consist of 2 to 3 phases. HACG intends to leverage current funding with additional resources and mixed financing options. Mixed finance options may include the Low-Income Housing Tax Credit Program (LIHTC), and other federal, state, local and private financing options that may be available. Phase 1 will consist of the development of senior (55+) multifamily housing. The selected Developer and HACG will develop jointly a new mixed-use, mixed-income community.

3. SCOPE OF WORK

General Requirements. Prospective proposers shall examine the proposed Program parameters outlined herein and respond to with proposals that are responsive to the market, and the environment. Services may include but are not limited to:

Development Services

- Financing Strategy (including options and requirements)
- Planning and Design
- Site Master Planning
- Architectural and Engineering Review
- Mixed-Income Housing Development

- Mixed-Income Housing Financing Options
- Low-Income Housing Tax Credit Participation
- Obtain permits, approvals and environmental clearances
- Participation in Community Meetings
- Participation in Jurisdictional Meetings
- Arrange financing and provide all required guarantees
- Site Preparation
- Infrastructure
- Construction

3.1 Roles and responsibilities of Developer. The selected Offeror will be expected to successfully work with HACG as the Developer for the implementation of the development project. Of specific interest to HACG is the provision of the requisite information to enable HACG to act as its own developer in future transactions.

The specific duties of the Developer include, but are not limited to the following:

- Design and construction of any new public infrastructure and site improvements
- If required, participate in master planning in partnership with HACG, any Development Consultant Team, and community stakeholders and residents, if applicable.
- Assist HACG to secure all project financing including: LIHTC resources, First Mortgage Debt, etc. HACG will be involved with all discussions/negotiations with financial resources.
- Design and construction of all rental housing for Phases
- Use of an inclusionary process to involve HACG staff in the development process
 - Operation, leasing and management of the new housing to allow for prompt transition of the rental property management to HACG staff within 24 months or less.
 - Provide capacity building training and assistance to HACG in all phases of development, construction, management, and compliance

The specific role and duties of the selected Developer will be finalized during negotiations with HACG and documented in the Revitalization Agreement identified below.

3.2 Roles and responsibilities of HACG. HACG intends to be a full and equal partner in the development process. HACG will have various specific roles as ground lessor, lender, and overseer of program compliance with respect to housing units. Each role is discussed briefly below. So long as the selected Developer observes HACG's proper interests and public obligations with respect to those roles, HACG intends to respect the creativity, expertise and business requirements of the selected Developer. HACG will expect the selected Developer to respect it as the Project Owner and keep it fully informed and to secure advance consent to all significant decisions and public positions.

3.3 Revitalization Agreement

HACG and the successful Developer will negotiate to enter into a Revitalization Agreement describing the relationship of HACG and the Developer and the roles and responsibilities of each party. The successful Developer will undertake the redevelopment of the New Community according to the terms and conditions of the Revitalization Agreement.

HACG contemplates that the Revitalization Agreement will provide for the selected Developer to assist HACG with, or perform on its behalf, remediation, site restoration, and master planning. HACG proposes to compensate the selected Developer for some or all of these services. The Revitalization Agreement further sets forth the assistance the HACG is prepared to provide the selected Developer, conditions on that assistance, and requirements for closing each development phase. At each such development phase closing, phase-specific documents will be executed including, but not restricted to, a Ground Lease, Regulatory & Operating Agreement, and Housing Authority Mortgage Loan Agreement/Note/Mortgage.

3.4 HUD Requirements

Because HACG will be providing capital and operating funding with funds provided to it by HUD, certain HUD approvals will be required as set forth in the Federal Regulations at 24 CFR Part 941, Subpart F. Generally speaking, HUD will release predevelopment funds to HACG upon an appropriate showing of need and good stewardship. HUD will release development funds only after approving first a Mixed-Finance Proposal, and then evidentiary documents which will generally be all significant closing documents.

HACG's Development Team, is experienced with these procedures and will have responsibility for submissions to and negotiations with HUD in conjunction with HACG Legal Counsel, based on development materials prepared by the selected Developer and acceptable to HACG. However, in both development and operating matters, public housing requirements may require a different approach or additional procedures from those to which an Offeror is accustomed. HACG will provide assistance and guidance to the selected Developer in these matters.

4. SOCIOECONOMIC PARTICIPATION

It is anticipated that many opportunities will be available for the involvement of minority, women (M/WBE) and Section 3-owned businesses. HACG has a strong and enduring commitment to such involvement and believes that Columbus hosts strongly qualified entities in all of those categories. The selected Developer is expected to ensure significant participation by M/WBE and Section 3 firms throughout the process.

5. FINANCIAL STRUCTURE OBJECTIVES OF HACG

HACG is interested in a financial structure that accomplishes several objectives. They are:

- Producing the greatest public benefit with the smallest consumption of public resources
- Leveraging HACG's funds to attract private and conventional sources of capital
- Obtaining a return-on and a return-of the effort and capital invested by HACG
- Retaining title of the underlying land and a first right of purchase of the development to the leasehold
- To be a full and equal partner throughout the entire development process
- Participating in the development fees (minimum of 50/50), stream of income and other financial compensation derived from the New Community
- Financing the community and supportive services necessary to foster self sufficiency
- Utilizing a development process that can facilitate timely implementation
- Providing performance incentives to the selected Developer

The following sections describe aspects of a legal and financial structure that has been used in other mixed-finance transactions to accomplish these objectives. HACG will consider other structures that achieve the same goals for HACG.

5.1 Ownership Structure

An entity (the “Ownership Entity”) will hold title to the improvements for each phase of the New Community. HACG anticipates it will serve as General Partner in the Ownership Entity. It is contemplated that the Offeror may have specific day-to-day management and operational authority as determined by the Ownership Entity, related LIHTC Investors, or Lenders. The actual ownership structure will be determined appropriately in negotiation with said parties. HACG will expect to participate in the Ownership Entity as an equal partner or as otherwise necessary to achieve agreed-upon economic participation.

5.2 Ground Lease

HACG will not convey its fee interest in the existing property nor for any property used for rental housing development but will enter into a long-term ground lease with the Ownership Entity. HACG anticipates that the term of the ground lease will be not less than 55 years. The amount of annual rent under the ground lease may or may not be nominal but is subject to negotiation and will be considered as part of the financial incentives provided to HACG by the Offeror. The ground lease will include restrictive covenants requiring that a designated number of PHA-Assisted Units will be available for eligible families and subject to certain housing rules for at least 40 years. At the end of the term of the ground lease, the property and all improvements thereon will revert to HACG.

5.3 Guarantees

HACG anticipates that the selected Developer will be responsible for all guarantees of completion, operating deficits, and tax credits compliance required by tax credit investors or lenders during the period of the agreement with HACG.

HACG anticipates that it will provide working capital as specified in the Revitalization Agreement and will provide required guarantees for the project financing. HACG will not make any guarantees except as set forth in the Regulatory and Operating Agreement with regard to operating subsidy for PHA-Assisted Units.

6. PROPERTY MANAGEMENT

HACG requires the New Community to be managed to high standards with effective lease enforcement a priority. Additionally, the PHA-Assisted Units must be maintained and operated in compliance with all requirements of LIHTC Requirements, applicable law, HUD regulations, and policies approved by HACG. The property management efforts are expected, at all times, to be sensitive to issues facing low-income residents and to be supportive of Community and Support Services programs provided or arranged for by HACG.

6.1 Post-Development Property Management

No later than closing and property conveyance on any development phase, or as earlier agreed, the Ownership Entity will assume management through a Management Agent that may be a related entity and must be acceptable to HACG. The Management Agent must be familiar with certain rules and procedures that accompany federal housing programs and must meet reporting requirements of the Ownership Entity to HACG, as set forth in the Regulatory and Operating Agreement. Any assisted units that are also assisted by LIHTC must be operated in compliance with GHFA requirements. In addition, the Developer/Management Agent will be

required to provide any management certifications required by HUD to qualify for applicable capital and operating funds.

HACG requires that the Offeror possess or include within its Development Team, the requisite experience to supervise HACG management of LIHTC housing and provide effective training to HACG in management and compliance of said LIHTC housing. It is HACG's intention to use its relationship with the Developer to further enhance its property management expertise and to share in property management responsibilities. During the initial twelve months (approximate) after stabilization and operation of the property, HACG wants, through a mentoring and training process with the Management Agent, to transition into full management of the property twelve months after stabilization. All management transitions are subject to the approval of the Owner Entity and LIHTC Investor.

6.2 Site-based Waiting List

The Ownership Entity, through its Management Agent, will develop and maintain a site-based waiting list for eligible units in the New Community. The site-based waiting list shall be operated in accordance with policies approved by HACG and adopted as part of its Annual Plan, in accordance with HUD requirements. The Management Agent shall use the site-based waiting list to select applicants for occupancy, subject to screening and eligibility requirements. HACG will furnish the Management Agent with the initial site-based waiting list that will consist of any displaced residents who have indicated a desire to live in the New Community.

7. COMMUNITY AND SUPPORTIVE SERVICES

HACG has formulated and will implement a basic Community and Supportive Services (CSS) program based on the stated needs of the future or previous residents. Since the majority of the any current site-based residents are economically disadvantaged, the major thrust of the CSS effort will be a family self-sufficiency program.

HACG will work with local organizations to provide the necessary job training, counseling, job placement and follow-up assistance, together with limited childcare subsidy, transportation assistance, and other initiatives aimed at removing barriers to employment.

In addition, HACG will work with other organizations to provide largely in-kind services in other areas identified in the survey such as youth programs, elderly services, economic development assistance, healthcare, transportation, and education.

The selected Developer will be expected to coordinate with and support the CSS activities as part of the overall development effort including potential Section 3 employment opportunities or WBE / MBE enterprises. CORES certification or partnership with a CORES certified contractor is required by the Developer.

8. SUBMISSION REQUIREMENTS

- **The HACG has the right to award a contract to the Proposer** whose Proposal is determined by the HACG to be the most advantageous to the Project.
- **Representatives from the HACG (the Evaluation Committee)** will evaluate the proposals and rank them from the mostly likely to the least likely to meet the needs of the HACG. If several proposals are very closely ranked or for the purposes of additional clarification/information, the HACG may call for interviews and or product demonstration to assist in the decision-making process.
- The following selection criteria are anticipated to be weighted in the selection of the successful Proposer.

Submission Requirements

- a. Letter of Interest with requested information and proposed working agreements.
- b. Team Experience and Qualifications
 1. Team Description
 2. Profile of the Developer
 3. Profiles of Development Team Members
- c. Provision of Community and Supportive Services (CORES Certification)
- d. Proposed Developer Approach for HACG Capacity Building
- e. Community, Resident and Minority Participation
- f. Certification and Assurances
 1. Representations, Certifications, and Other Statements of Bidders
 2. Certifications and Representations of Offerors (Non-Construction Contract)
 3. General Conditions of Non-Construction Contracts
 4. Non-Collusive Affidavit
- g. Other Attachments

Description of Each Submission Requirement

The instructions below provide guidance on what the submission package should contain and how it should be organized. Offerors must assemble submissions in the order described below.

- a. **Letter of Interest** - The Developer must provide a letter of interest listing the Developer team members and identifying the primary contact person. The letter must be signed by an authorized principal of the Developers' firm and include a statement that the terms of the offeror's submission will remain valid for not less than one hundred eighty (180) days from the due date.

Master Planning/Construction Management

Master Planning or Construction Management Fees for design and construction of the new public infrastructure. Include any add-ons, staffing costs, or direct reimbursements proposed for the Developer's oversight if needed.

Developer Fee Split

Provide the developer fee distribution that you propose for HACG and the Developer recognizing that HUD approves fees up to 12% unless special justification supports a fee greater than 12% and up to the 15% allowed by the Georgia DCA. Recall that per the RFQ, the Developer will provide assistance in securing project financing and will be responsible for the design of all rental housing, construction of all rental housing, and providing construction completion guarantees. Also, recall that HACG is providing reimbursement for up to 50% of all third-party costs. Include any add-ons, staffing costs, or direct reimbursements proposed for the Developer's oversight. The developer fee split between HACG, and the Developer will be at a minimum 50/50.

Property Management Fee

Specify the proposed property management fee for the initial operation, leasing, compliance, and management of the rental housing. Specify a proposed date for transition of the rental property management to HACG.

b. Team Experience and Qualifications

1. **Team Description:** Provide general information on the Developer and the Development Team, including the following information:

- Name of Developer and proposed role.
- Main address, telephone/fax numbers and email address of Developer firm.
- Address and telephone number of the office from which services will be provided to the development (if different from above).
 - Contact person, title, telephone/fax numbers and email address.
- Description of the size, number of employees and the current workload of the Developer.
- Identify the individual who will serve as Project Manager for the Developer and who will direct and coordinate the development effort to completion.
- List the members of the Development Team. All entities that comprise the team should be identified, indicating their specialization(s) and specific contribution to the team. Developers are encouraged to include specialists for all components of the program including design, property management, and legal and financing professionals. With regard to a construction contractor, please identify a construction partner or provide an explanation of why and how the construction partner(s) will be selected later.
- Provide a brief narrative description of previous collaborations among some or all members of the Developer.
- For each discipline represented on your Development Team, indicate whether in your judgment familiarity with state or local rules, practices, conditions or personnel is important to the effective accomplishment of the development and, if so, indicate the extent of and basis for your team's familiarity.

2. **Profile of the Developer:** Provide an overview of the Developer's experience in the design, construction and management for both redevelopment and development projects using LIHTC funding. Include the following information:

- Identify all mixed use/mixed finance efforts in which the Developer has been or is currently involved.
- Provide three examples of previous projects evidencing the Developer's experience with successful new construction of multi-family and mixed-use rental properties of similar size in an urban setting, including any such projects that provide evidence of the Developer's experience in utilizing layered financing, including Low-Income Housing Tax Credits (LIHTC), tax-exempt housing revenue bonds, or other types of funding programs. State the source and amount of funding for each example. Include information about rent-up period, current occupancy, income groups served and operating deficit history.
- List five most recent LIHTC projects successfully completed, identifying the states where they are located, the size of the tax credit allocations and tax-exempt bond allocations received, who the investor was and how much the investor paid for the tax credits (expressed in cents per tax credit dollar), specify the number of units, the unit size mix, the income groups served and the cost of each project.
- Provide evidence of ability to meet Phase I development requirements, including

information on planned or existing housing development projects, existing financial commitments and sites under developer control through which the developer could provide near-term potential off-site housing development opportunities.

- Provide a narrative description of the Developer’s previous expertise in integrating community and supportive services and Section 3 goals in the overall development and maintenance of similar projects.
- The Developer has a significant role in this project related to securing LIHTC resources and complying with LIHTC requirements as Owner, Developer and Manager. Developers or Development Teams are required to demonstrate to HACG specific prequalification with the Georgia Department of Community Affairs (DCA) to serve in these three roles. Provide copies of the GHFA correspondence qualifying the Developer or appropriate member(s) of the team as “Developer”, “Owner”, and “Manager” under Georgia LIHTC requirements.
- Provide profiles of key staff, including the Project Manager, who will be involved in the redevelopment effort. Specify the roles of key staff in carrying out this development initiative and their previous experience with housing development and redevelopment efforts. For the Project Manager, and other key staff, identify what commitment of his/her time you will make if selected; identify the nature and extent of his/her involvement in other current projects and what adjustments would be made, if any, to these assignments, if selected.
- Attach financial statements from the Developer or any affiliate who will be providing guarantees for the project. The financial statement must be current and should show the assets, liabilities and net worth of the entity. The Developer must also provide the firm’s most recent financial audit or a current financial statement prepared by a Certified Public Accountant. Additionally, submit bank references for the Developer. Any entity whose financial statement is provided may be required to be a party to, or guarantee the performance of, the Revitalization Agreement and closing documents for any development phase.
- In addition to the bank references, three relevant references must be submitted for the Developer. References that are relevant to the scope of work as anticipated in this RFQ and from among the following entities are desirable.
 - Construction lender or Permanent lender
 - General contractor on a comparable development
 - Low Income Housing Tax Credit limited partner investor
 - Prior joint development partner in a comparable development
 - A Public Housing Authority or community-based group that has worked with the Developer on a specific development in which the Developer provided training and capacity building as described in this RFQ

3. Profiles of Development Team Members:

- For team members not directly employed by the Developer, provide an overview of their experience in contributing to affordable housing development or redevelopment in a role as anticipated in your response to this RFQ.
- Provide three examples of projects (completed or underway) evidencing the experience of the architectural firm with the design of residential developments for LIHTC mixed finance development or revitalization.
- Three references must be submitted for each member of the Developer. Your architect’s

references should be connected with the projects provided as examples and able to comment on any issues of cost or feasibility encountered with the designs.

c. Provision of Community and Supportive Services

The HACG intends to implement a Community and Supportive Services Plan that will include any current residents in the New Community. The HACG may have limited funds available for the provision of community and supportive services post-revitalization. However, the HACG will view favorably a Developer who can bring other resources, so that residents have sustained access to the supportive services they need to adequately provide for the emotional, physical and economic health and well-being of their families. CORES certification or partnership with a CORES certified organization is required.

In narrative form, please identify the type of on-going community and supportive service arrangements and partnerships the Developer has either implemented, or arranged, at mixed-income housing developments of comparable size and complexity in urban areas. Also state the proposed plan for supporting or supplementing the provision of community and supportive services at the New Community.

d. Proposed Developer Approach for HACG Capacity Building

HACG will use a site-specific Development Program as a vehicle to provide high quality housing for low-income families within a socially diverse setting and as a means to further enhance the capacity and knowledge of its staff, increase its familiarity with modern development and property management skills, and strengthen its financial base. Respondents to the RFQ will be asked to provide methodology and describe their approach to assisting HACG to meet this requirement.

e. Certifications and Assurances

Offeror must complete and submit the required certifications and assurance forms located in the Appendix, and may be subsequently required to furnish certifications regarding debarment and suspension, as well as other standard certifications and reference release forms.

The successful Developer must be willing to comply with all terms and conditions of the RFQ. As a general requirement, the RFQ specifies that all work is to be performed in accordance with professional standards, HUD regulations, requirements and criteria and local codes, regulations, ordinances and statutes. It will be the HACG's full expectation and a contractual requirement that the successful Developer fully and routinely meet the above requirements.

f. Other Attachments

Offerors may attach, at the end of their submission, other promotional materials or work products that would demonstrate their experience and qualifications.

9. EVALUATION CRITERIA

The following evaluation factors will be used in determining the Developers who are deemed within a competitive range for further consideration. Each submission has a total possible score of 100 points.

Points Available	Criteria	Description of Criteria
45 points	Experience and Capacity of the Developer	<p>The degree to which the Developer demonstrates:</p> <ul style="list-style-type: none"> • Successful experience in the design and construction of mixed-income and mixed- use housing development projects of comparable size and complexity in urban areas; • Ability to obtain, structure and implement layered financing (including LIHTC in Georgia) for such projects; • Financial capacity (of the developer/provider of guarantees); • Familiarity with requirements applicable to mixed-finance development and public housing operation • Capacity to meet Phase I development requirements • Demonstrated ability of Developer to provide the required training of HACG in real estate development. • Prequalification under Georgia Department of Community Affairs (DCA) as a qualified Owner, Developer, and Manager of LIHTC housing is required of the developer or specific member of the Team.
25 points	Experience and Capacity of the Development Team	<ul style="list-style-type: none"> • Cohesion of the team (including Developer), as demonstrated by experience working together, and coherence of their technical responses. • Degree to which members of team (other than the Developer) demonstrate successful experience in their respective disciplines as required for the design, development and operation of mixed-income developments of comparable size and complexity in urban areas. • If applicable, degree to which Developer offers satisfactory justification for deferring until a later date the selection of some Developer members. • Degree of team’s familiarity and experience with state or local rules, practices, conditions or personnel that are important to the effective accomplishment of the development.
20 points	Experience and Capacity to Manage the Property	<ul style="list-style-type: none"> • The degree to which the Developer demonstrates successful experience with ownership and property management (either directly or through supervision of property management provided by a third party) of mixed-income rental developments of a similar size. • Developer’s ability to observe public housing operational and reporting requirements\ • Demonstrated capacity of Developer to provide the required training of HACG in LIHTC Compliance and market rate property management
5 points	Community and Supportive Services	<ul style="list-style-type: none"> • The degree to which the Developer has experience in Community and Supportive Services activities. • CORES Certification
5 points	Equal Opportunity (MBE/WBE) and Non-Discrimination/ Section 3 Compliance and Resident Participation	<ul style="list-style-type: none"> • The degree to which the Developer provides for minority and women-owned business participation reflective of the local community and demonstrates compliance with equal opportunity and non-discrimination requirements. • The degree to which the Developer demonstrates experience in, and an effective approach to, compliance with Section 3 requirements and resident participation.

10. SELECTION PROCESS

The purpose of this RFQ is to solicit meaningful offers so that the HACG may select from a range of offers, one that best meets its needs and requirements. HACG urges all interested developers to carefully review the requirements of this RFQ. Written offers containing the requested information will serve as the primary basis for final selection.

HACG reserves the right to conduct negotiations with one or more Offerors, if in the sole opinion of the HACG, that method will provide the greatest benefit to the HACG. All offers will be initially reviewed to determine compliance with the submission requirements specified in this RFQ. offers that do not comply with these requirements may be rejected without further review.

The evaluation criteria stated above will be used to determine the most competitive Offerors. At HACG's option, Offerors may be asked to participate in an interview process to further discuss how they will specifically apply their qualifications and experience in converting a plan for the Development project into a feasible, sustainable, mixed-income and mixed-use urban development. HACG will use the interviews, reference checks and best and final offers to make a final determination of selection in accordance with the stated Evaluation Criteria.

1. Procurement Schedule (Dates are approximate)

Procurement Activity	Date
Issue RFQ	2/13/24
Final Day to Submit Written Questions	2/26/24
Proposals Due	3/4/24
Review Proposals, Complete Ratings, and Verify References	3/5/24 – 3/12/24
Internal Recommendation for Developer Selection	3/13/24
Request Board Approval of Developer Selection	3/20/24
Formal Notification of Selection by HACG	3/21/24

Submission Package – Offerors have two options for proposal submissions.

Option 1 – Submission can be emailed using a Dropbox link to Bidsubmittals@columbushousing.org. Offerors must clearly coordinate proposal response information with each Submission Requirement item. Separate folders titled for each section. **Please reference RFQ Number: 2024-701 on submission.**

Option 2 – Offeror must assemble submissions in the order described below and submit a minimum of four (4) copies of proposals in 3-ring binders with tabs clearly identifying each section. Offerors must clearly coordinate proposal response information with each Submission Requirement. **Please reference RFQ Number: 2024-701 on submission.**

2. Committee to Evaluate the Submissions

A committee will be established that will be responsible for overseeing the development team procurement process and making a selection recommendation to HACG's Executive Director and Board of Commissioners. The Committee will be made up of representatives of HACG. The Committee will determine which submissions are competitive based on the established evaluation criteria and point system. Offerors whose submissions are determined to be in the competitive range may be interviewed by the Selection Committee, at HACG's option. Following the interviews (if required), offerors may be required to submit supplemental information. The Selection Committee will then assign a final score for each submission.

The Committee may consider unacceptable any submission for which critical information is lacking or whose submission represents a major deviation from the requirements of this RFQ. Minor omissions, such as incomplete references may, at the sole option and discretion of HACG, be corrected subsequent to the submission due date.

11. GENERAL INFORMATION

a. HACG Reservation of Rights

- 1.1 **Right to Reject, Waive, or Terminate the RFQ.** HACG reserves the right to reject any or all proposals, to waive any informality in the RFQ process, or to terminate the RFQ process at any time, if deemed by HACG to be in its best interests.
- 1.2 **Right to Now Award.** HACG reserves the right not to award a contract pursuant to this RFQ.
- 1.3 **Right to Terminate.** HACG reserves the right to terminate a contract awarded pursuant to this RFQ, at any time for its convenience upon 10 days written notice to the successful proposer(s).
- 1.4 **Right to Determine Time and Location.** HACG reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFQ.
- 1.5 **Right to Retain Proposals.** HACG reserves the right to retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of HACG.
- 1.6 **Right to Negotiate.** HACG reserves the right to negotiate the fees proposed by the proposer entity.
- 1.7 **Right to Reject Any Proposal.** HACG reserves the right to reject and not consider any proposal that does not meet the requirements of this RFQ, including but not necessarily limited to incomplete proposals and/or proposals offering alternative or non-requested services.
- 1.8 **No Obligation to Compensate.** HACG shall have no obligation to compensate any proposer for any costs incurred in responding to this RFQ.
- 1.9 **Right to Prohibit.** HACG shall reserve the right to at any time during the RFQ or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.

b. No Claim Against the HACG

An Offeror shall not obtain, by submission of a response to this RFQ, any claim against HACG or HACG's property by reason of all or any part of any of the following: any aspect of this RFQ; the selection process; the rejection of any or all offers; the acceptance of any offer; entering into any agreements or the failure to enter into any agreements; any statement, representations, acts or omissions of HACG or any person or entity acting on its behalf; the exercise of any discretion set forth in or concerning any of the foregoing; and any other matters arising out of the foregoing.

The Offeror will be responsible for all costs incurred in preparing a response to this RFQ. All material and documents submitted by Offeror will become the property of HACG and will not be returned. The Offeror selected for further interviews and negotiations will be responsible for all costs incurred in connection therewith.

c. Personnel

By way of submitting a response to this RFQ, the Offeror is representing that the personnel described in their submission package shall be available to perform the services described, barring illness, accident or other unforeseeable events of a similar nature in which cases the Offeror must be able to provide a qualified replacement. Furthermore, all personnel should be considered, at all times, the sole employees of the Offeror under its sole direction, and not employees or agents of HACG.

d. Contact with HACG Staff, Board Members and Residents

All communications with HACG shall be emailed to:

RFPupdates@columbushousing.org

Beyond the above referenced written communications, Offerors and their representatives may not make any other form of contact with HACG Staff, Board Members or Residents. Any improper contact by or on behalf of an Offeror may be grounds for disqualification.

e. Contract Form and Issues

This RFQ will lead to a Revitalization Agreement, the exact terms of which will be negotiated between HACG and the successful Offeror. No contractual rights shall arise out of the process of negotiation until such time as the HACG and the selected Offeror have signed an agreement. Work under the agreement shall commence immediately upon execution. HUD must approve the Offeror agreement prior to execution.

f. Rules, Regulations and Licensing Requirements

The Offeror, their staff and agents shall comply with all laws, ordinances and regulations applicable to the services specified herein, especially those applicable to conflict of interest. Offerors are presumed to be familiar with all Federal, State and Local Laws, Ordinances, Codes, Rules and Regulations that may in any way affect the services to be provided.

g. Equal Opportunity Employment

Offerors agree that there will be no discrimination as to race, gender, religion, color, age, creed or national origin in regard to obligations, work and services performed under the terms of any contract ensuing from this RFQ. Offerors must also agree to comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375, as supplemented by the Department of Labor Regulations (41 CFR Part 60).

**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:]

Certifications and Representations of Offerors

Non-Construction Contract

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)

- | | |
|---|---|
| <input type="checkbox"/> Black Americans | <input type="checkbox"/> Asian Pacific Americans |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans |
| <input type="checkbox"/> Native Americans | <input type="checkbox"/> 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):

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 (exp. 1/01/2014)

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 \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$100,000

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

- (d) 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 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.

