



# Asset Repositioning Consultant

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Request for Qualifications # 2545

**CONCORD HOUSING DEPARTMENT**

Monday, August 1, 2022

<b>GENERAL TERMS AND CONDITIONS</b>	
1. SUMMARY.....	3
2. PROCUREMENT METHOD.....	3
3. COMMUNICATION.....	4
4. CONTRACT FORM AND ISSUES.....	4
5. CONTRACT DURATION.....	4
6. CONTRACT MODIFICATION.....	4
7. INDEPENDENT CONTRACTOR.....	4
8. CONTRACTOR RESPONSIBILITY.....	5
9. CONDITIONS FOR SUBCONTRACTING AND APPROVALS.....	5
10. MANDATORY CONTRACTUAL TERMS.....	5
11. INDEMNITY.....	5
12. FUNDING LIMITATIONS.....	6
13. SECTION 3.....	6
14. MBE/WBE UTILIZATION.....	6
15. PROFESSIONAL LIABILITY AND WORKERS COMPENSATION INSURANCE.....	7
16. INVOICING.....	8
17. AMENDMENTS.....	8
18. DELIVERY REQUIREMENT.....	8
19. INCURRED COST IN PREPARATION OF RFQ.....	8
20. MODIFICATION OF SOLICITATION.....	8
21. PREFERRED CONCEPT(S).....	9
<b>SCOPE OF SERVICES</b>	
1. PURPOSE.....	10
2. SCOPE OF SERVICES.....	10
3. FINANCING PLANS.....	11
4. PREFERRED REPOSITIONING/DEVELOPMENT CONSULTANT EXPERIENCE.....	12
<b>EVALUATION FACTORS</b>	
1. EVALUATION.....	13
<b>PROPOSAL INSTRUCTIONS</b>	
1. POINT OF CONTACT.....	14
2. FORMAT AND CONTENT OF PROPOSALS.....	14
3. GENERAL INFORMATION.....	14
<b>SUBMITTAL</b>	
1. FORM OF SUBMITTAL.....	16
2. DELIVERY OF PROPOSAL.....	16
<b>AMP DESCRIPTION.....</b>	
<b>FEDERAL REQUIREMENTS.....</b>	
<b>Exhibits A - D</b>	

**Request for Qualifications Asset Repositioning Consultant  
City of Concord Housing Department  
283 Harold Goodman Circle, SW  
Concord, NC 28025**

Concord Housing Department of the City of Concord, NC, by virtue of its contract with the United States of America, acting through the Department of Housing and Urban Development, pursuant to the United States Housing Act of 1937, as amended, is hereby requesting qualifications for the Concord Housing Department **Asset Repositioning Consultant** located at 283 Harold Goodman Circle SW, Concord, NC 28025.

Attention is called to all respondents that all applicable Equal Employment Opportunity requirements for federally assisted contracts must be complied with. This includes strict compliance with Executive Order 11246, as amended (establishing a goal of 6.9% for female employment and 1.3% minority percentage by craft); Nondiscrimination; Executive Order 11625, Minority Business Enterprises; Executive Order 12138, Women Business Enterprise; Section 3 of the Housing and Urban Development Act of 1968; Civil Rights Act of 1964; and Minority Business Participation.

Interested respondents may obtain contract specification documents containing detailed submission by accessing "Recent Bid Requests" on the City of Concord webpage at <https://concordnc.gov/Departments/Finance/Purchasing/RFPs-RFQs-and-Bids> or the Housing Departments webpage at <https://concordnc.gov/Departments/Housing>.

Interested Firms are requested to respond by proposal submission (satisfying the requirements of this Invitation) on or before **Wednesday, September 7, 2022, at 10:00 A.M. EST**, to be submitted to **Housing Director for the City of Concord, Angela J. Graham**, 283 Harold Goodman Circle SW, Concord, NC 28025. The envelope should be clearly marked **"Asset Repositioning Consultant."**

Questions may be submitted in writing by email to Mary Powell-Carr ([carrm@concordnc.gov](mailto:carrm@concordnc.gov)) Community Development Manager, City of Concord on or before **Wednesday, August 17, 2022 at 3:00 P.M. EST** Responses will be provided to all registered offerors not later than **Thursday, August 25, 2022 at 3:00 P.M. EST** on the City of Concord webpages given above.

The City of Concord Housing Department reserves the right to accept or reject any or all proposals or to waive any informalities in bidding, and to withhold award for a period of sixty (60) days.

City of Concord  
Housing Department  
Angela J. Graham,  
Housing Director

# GENERAL TERMS AND CONDITIONS

## **1. SUMMARY**

The Concord Housing Department and its related entities (hereinafter referred to as the “CHD”), has a need for an Asset Repositioning Consultant. CHD is seeking statement of qualifications from qualified and experienced consultants and other professionals as well as firms to assist in the potential conversion of CHD’s Low-Income Housing developments utilizing available HUD programs, Rental Assistance Demonstration, Section 18, etc. CHD has a total of 174 public housing units in one Asset Management Projects (AMP) which have a mix of elderly and disabled residents as well as families.

CHD plans to partner with a qualified Consultant to assist with the asset Repositioning process to rehabilitate, relocate or build new, and/or demolish public housing units using a variety of funding sources and financial arrangements. A profile of the properties to be considered for Repositioning is included in the Appendix.

CHD plans to contract with a Consultant to handle all facets of the evaluation process with the CHD’s approval at each stage. For this project, CHD plans to enter into a “full service” agreement where the selected Consultant will be responsible for, in its entirety, the REPOSITIONING conversion application process as well as assist CHD in determining a plan based on market trends and feasibility in going forward with any possible rehabilitation new construction, acquisition, or demolition and replacement of public housing units as allowed under HUD programs.

Through the Request for Qualifications (RFQ) process, CHD is seeking to identify a qualified Consultant who has extensive experience with REPOSITIONING rules and regulations, structuring financial strategies and performing development services. CHD, in its sole discretion, will determine the extent of the role the consultant will play in each component of the development, as it may differ based upon the conversion strategy for each site.

Potential selection of a tax credit developer will be done through a separate Request for Qualifications process.

The intent of this RFQ is to award a contract to the responsible firm whose qualifications and other factors considered, are the most advantageous to the Housing Department.

## **2. PROCUREMENT METHOD**

CHD will award this contract in accordance with qualifications – based selection procedures per the City of Concord’s Housing Department Procurement Policy as approved by HUD. CHD will evaluate submissions based on the demonstrated experience in performing financial underwriting, project feasibility, and deal structuring, which includes; detailed analysis of multiple affordable housing financing programs (low income housing tax credits (LIHTC), tax-exempt bond financing, tax-increment financing, HUD and conventional debt (Fannie Mae, Freddie Mac, private market loan products). CHD will also evaluate submissions based on the respondent’s capacity and experience in affordable housing development and advisory services, which include experience completing HUD Rental Assistance Demonstration (REPOSITIONING) conversions or HUD-financed projects, as well as, experience working with public housing authorities.

### 3. COMMUNICATION

All communications regarding this RFQ shall be in writing, preferably by email, and must be directed to the following Point of Contact for this RFQ:

Mary Powell-Carr  
Community Development Manager  
City of Concord  
carrm@concordnc.gov

Any oral communications shall be considered unofficial and non-binding with regard to this RFQ.

Any questions for clarification shall be directed to Point of Contact via email on or before August 17, 2022 at 3:00 P.M. EST. CHD shall respond to all questions no later than August 25, 2022 at 3:00 P.M. EST via email.

### 4. CONTRACT FORM AND ISSUES

No contractual rights shall arise from the process of negotiation until such time as the City of Concord and the selected Asset Repositioning Consultant(s) have signed an agreement. Work under the agreement shall commence immediately upon execution of such agreement. Parties further concur that CHD must approve the agreement and both agree to work diligently to implement changes as required. CHD reserves the right to make multiple contract awards for any or all of the services required pursuant to this RFQ.

### 5. CONTRACT DURATION

The contract resulting from this RFQ shall be for a period of two (2) years commencing on or about November 2022, with the option to extend the contract for two (2) additional one (1) year periods. Extensions will be decided prior to the end of each one (1) year period. The option to extend is exclusively at the discretion of the CHD.

### 6. CONTRACT MODIFICATION

CHD reserves the right to increase or delete any scheduled **items, goods, services or activities, and/or increase or reduce the quantity of any** scheduled item, goods, service or activity as deemed necessary, to award portions of this RFQ, to waive minor informalities and technicalities, and to make awards consistent with the City of Concord policies, and the applicable laws governing HUD or other federally regulated programs.

### 7. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that CHD is contracting with the successful offeror as an independent contractor, and will not be an employee of the City of Concord or CHD. The parties hereto understand and agree that the City or CHD shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful bidder under this contract and that the successful bidder has no authority bind either the City of Concord or Concord Housing Department.

## **8. CONTRACTOR RESPONSIBILITY**

Procurements shall be conducted only with responsible parties, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity (including a review of the List of Parties Excluded from Federal Procurement and Non-procurement programs published by the U.S. General Services Administration), compliance with Concord policy, record of past performance (including contacting previous clients of the contractor), and financial and technical resources. If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the contract file, and the prospective contractor shall be advised of the reasons for the determination.

Contracts shall not be awarded to debarred, suspended or ineligible contractors. Contractors may be suspended, debarred, or determined ineligible by HUD in accordance with HUD regulations (24 CFR Part 24) when necessary to protect CHD in its business dealings.

## **9. CONDITIONS FOR SUBCONTRACTING AND APPROVALS**

The Contractor may not subcontract any portion of the services provided under this RFQ without obtaining the prior written approval of the CHD, which approval CHD may withhold or condition in its sole and absolute subjective discretion. CHD nor the City of Concord shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

## **10. MANDATORY CONTRACTUAL TERMS**

By submitting a proposal in response to this RFQ, an offeror, if selected for award, shall be deemed to have accepted the terms of this RFQ, and any revisions thereto, and this RFQ shall be made a part of the engagement contract with the successful bidder.

## **11. INDEMNITY**

Contractor covenants and agrees to fully indemnify and hold harmless, the City of Concord, CHD, and the elected officials, employees, and representatives of the Housing Department, individually or collectively, from and against any and all costs, claims, liens, damages losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon CHD, directly or indirectly arising out of resulting from or related to contractor's activities under this contract, including any acts or omissions of contractor, any agent, officer, director, representative, employee, consultant or subcontractor of contractor, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this contract, all without, however, waiving any governmental immunity available to CHD under North Carolina law and without waiving any defenses of the parties under North Carolina. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Contractor shall promptly advise CHD in writing of any claim or demand against CHD or contractor known to contractor related to or arising out of contractor's activities under this contract and shall see to the investigation and defense of such claim or demand at contractor's

cost. CHD shall have the right, at its option and at its own expense, to participate in such defense without relieving contractor of any of its obligations under this paragraph.

It is the express intent of the parties to this contract, that the indemnity provided for in this section, is an indemnity extended by contractor to indemnify, protect and hold harmless CHD from consequences of the CHD's own negligence, provided however, that the indemnity provided for in this section shall apply only when the negligent act of CHD is a contributory cause of the resultant injury, death, or damage, and shall have no application when the negligent act of CHD is the sole cause of the resultant injury, death, or damage. Contractor further agrees to defend, at its own expense and on behalf of CHD and in the name of CHD, any claim or litigation brought against CHD and its elected officials, employees, officers, directors and representatives, in connection with any such injury, death, or damage for which this indemnity shall apply, as set forth above.

## **12. FUNDING LIMITATIONS**

CHD shall not be bound to any contract if funding has been disallowed by HUD or other funder.

## **13. SECTION 3:**

The successful Respondent(s) shall comply with all applicable provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701U, and the regulations issued pursuant thereto, as set forth in 24 C.F.R. Part 135, and all applicable rules, directives and orders issued by HUD thereunder. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment generated by a Section 3 covered contract be given to public housing residents and other low-income persons residing in the metropolitan area, and subcontracts in connection with such contracts be awarded to Section 3 covered business concerns.

## **14. MBE/WBE UTILIZATION**

Prior to the commencement of any work, contractor shall furnish copies of all required endorsements and an original completed certificate(s) of insurance to the Housing Department, which shall be clearly labeled "Asset Repositioning Consultant." The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. CHD will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative. CHD shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by CHD. No officer or employee shall have the authority to waive this requirement.

CHD reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by the City of Concord's Risk Management based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will CHD allow modification whereupon CHD may incur increased risk.

## 15. PROFESSIONAL LIABILITY AND WORKERS COMPENSATION INSURANCE

Prior to the commencement of any work, contractor shall furnish copies of all required endorsements and an original completed certificate(s) of insurance to the Housing Department, which shall be clearly labeled "Asset Repositioning Consultant." The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. CHD will not accept Memorandum of Insurance or Binders as proof of insurance. CHD shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by the Housing Department. No officer or employee shall have Housing Department to waive this requirement. The contractor shall provide CHD with current certificates of insurance for all coverage required by the terms of this contract, naming the Concord Housing Department and the U.S. Department of Housing and Urban Development as Additional Insured.

CHD reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by the City of Concord's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will the City of Concord allow modification whereupon CHD may incur increased risk.

CHD shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the Housing Department, and may require the deletion, revision, or modifications of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CHD at the address listed below within 10 days of the requested change. Contractor shall pay any costs incurred resulting for said changes.

Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Within the "DESCRIPTION OF OPERATIONS" section where the statement of the contracted scope of work, location of the work, dates of work, etc. is indicated. The City requires that the description of operations includes the following statement:  
"The City of Concord is named as an additional insured as required by written contract. A Waiver of Subrogation is granted in favor of the City of Concord on the GL and WC policies."
- Provide thirty (30) calendar days advance written notice directly to CHD of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to the Housing Department. CHD shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a



material breach of this contract.

Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this agreement.

It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City of Concord for liability arising out of operations under this contract.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

## **16. INVOICING**

Invoices for the payment of services at agreed upon hourly rate shall be submitted to CHD in a monthly summary format for work performed in the preceding month. The format for each period of service will include date and time of service, a description of work performed, time spent on the service, hourly rate, and time multiplied by the hourly rate, and a total invoice amount.

## **17. AMENDMENTS**

It is the responsibility of the proposer to check this website throughout the open RFQ period. CHD will not be responsible for incorrect proposals due to offeror's noncompliance with amendments. Only CHD's official, written responses and communications shall be considered binding with regard to this RFQ. Revisions to this RFQ, amendments will be posted at;

<https://concordnc.gov/Departments/Finance/Purchasing/RFPs-RFQs-and-Bids>  
<https://concordnc.gov/Departments/Housing>

## **18. DELIVERY REQUIREMENT**

Each Respondent shall assume the risk of the method of dispatching any communication or proposal to the Housing Department. CHD assumes no responsibility for delays, delivery or system failures resulting from dispatch.

## **19. INCURRED COST IN PREPARATION OF RFQ**

The Offeror(s) shall be responsible for all costs in preparing a response to this RFQ. All material and documents submitted by prospective repositioning /developer/consultant(s) shall become property of CHD and will not be returned.

The RA/developer/consultant(s) selected for further interview and negotiations shall be responsible for all cost incurred during those processes.

## **20. MODIFICATION OF SOLICITATION**

CHD reserves the right to increase, reduce, add, or delete any item, service or activity to this solicitation as deemed necessary where it is consistent with the Housing Department's policies or strategies to do so.

## **21. PREFERRED CONCEPT(S)**

1. CHD will manage all units developed under repositioning.
2. Potential Demolition with a one-for-one replacement.
3. Modernization plans that have the least impact on residents are preferred, if possible.
4. Leveraging funds to the maximum extent feasible by aggressively pursuing other sources of funding is preferred.
5. The Housing Department's role is that of developer with repositioning /development consulting services provided by the consultant(s).
6. Determination to use PBV or PBRA.
7. Energy efficiency and green building designs will be used when possible.
8. Ownership will remain that of the City of Concord and CHD.

## SCOPE OF SERVICES

### **1. Purpose**

CHD is seeking a qualified firm to provide Asset Repositioning consulting services in regards to its development and redevelopment efforts. The Asset Repositioning consultant will be a direct advisor to CHD and its affiliates throughout the term of the engagement.

The purpose of this RFQ is to obtain meaningful and technical qualifications so CHD may select a consultant that meets its development needs. Single or multiple awards may be made through this solicitation. Proposers should be acquainted with CHD's enabling statute, as well as relevant local, state and federal laws and regulations. Prior to submitting a proposal, proposers, at their own expense, must secure any personnel and licenses required to perform the scope of work.

### **2. Scope of Services**

The firm selected to provide the consulting services described in this RFQ shall be qualified to provide expert advice to CHD on the following:

Perform a repositioning feasibility analysis of the Asset Management Project (AMP) to determine if any or all of the properties are candidates for conversion under repositioning. The analysis will compare multiple financing structures to convert the properties under repositioning and include a recommendation of the optimal financing structure for each property or property grouping. The assessment should be completed in the following order:

The units are divided over four communities; Wilkerson Homes, Mary Chapman Homes, Logan Homes and Larkhaven. Inventory consists of 33 one-bedroom units, 62 two-bedroom units, 69 three-bedroom units and 10 four-bedroom units. There are no five-bedroom options for larger families. Work will begin at the Wilkerson Homes community, move to the Logan Homes and Mary Chapman communities and lastly addressing the Larkhaven community.

For the public housing portfolio, the Concord Housing Department is requesting the following information:

- a. Estimate the long-term financial impact of the repositioning conversion on CHD.
- b. Recommend other sources of financing (Low Income Housing Tax Credit, bonds, loans, Energy grants, Federal Home Loan Bank, HUD insured loans or tax-exempt bonds, conventional loans, state housing development funds, Community Development Block Grant, New Markets Tax Credits, HUD Special Applications Center Demolition/Disposition, FHA financing, etc.) to perform rehabilitation activities of the property and capitalize reserves.
- c. Make recommendations as to the structuring of the project as well as the ownership structure to maximize CHD's ownership and control.
- d. Prepare a detailed analysis on the impact a full or partial repositioning conversion will have on all Housing Department staffing, as needed. Analysis shall include workforce needs under a conversion, and the impact conversion will have on all departments. Assist in identifying training and capacity development needs.

- e. Identify roles, responsibilities, and contractual arrangements of development and REPOSITIONING conversion partners. Identify any additional development team roles and suggest strategy for procurement of other team roles.
- f. Deliver to CHD an assessment/feasibility study of all units.

### **3. Financing Plans**

- a. Assist and advise CHD on submission of recent repositioning Project Capital Needs Assessment (PCNA) or REPOSITIONING Physical Condition Assessments (RPCAs) using the data on the repair, capital, and green sustainability needs, as well as energy audit and utility consumption information which will inform the REPOSITIONING conversion analysis.
- b. Review repositioning Project Capital Needs Assessment (PCNA) or Repositioning Physical Condition Assessments (RPCAs), assist in reconciling the proposed scope of work, and recommend financial structures to address physical needs.
- c. Develop financing plans using potential LIHTC rules to serve the Housing Department's current resident population, including those earning between 50% and 80% of Area Median Income
- d. Develop a plan to fund potential resident service programs such as ROSS and Family Self- Sufficiency in the absence of HUD public housing funding.
- e. Create financing plans to fully capitalize capital replacement and operating reserve funds for the repositioning properties to account for the loss of CFP funding.
- f. Provide advice to how to structure the Energy Performance Contract equipment liens into the repositioning conversion and rehabilitation financing scenarios.
- g. Prepare the operating and development pro formas to ensure compliance with repositioning and capital provider regulations.
- h. Deliver to CHD a financing plan for the AMP.
- i. Advise and assist CHD on negotiating with potential Developer Partner(s) to execute development agreements that will serve as controlling documents for implementation of projects.
- j. Advise and assist CHD involving the negotiation, preparation and review of all contracts, agreements, documents and other writings necessary to implement or assist in the implementation of all phases of any real estate development and/or redevelopment- related work, including property disposition. Examples include documents such, regulatory and operating agreements, letters of intent agreement business terms with investors, declarations of trust and restrictive covenants, management agreements, development term sheets and agreements, mixed finance amendments to the ACC, Tax Credits, program income agreements and loan documents.
- k. Advise and assist CHD in matters with the US Department of Housing and Urban

Development and other entities.

- l. Advise and assist CHD in evaluating all financial transactions including pro forma documents, operating statements, financing strategy and structure, and the Housing Department's ownership interests.
- m. Provide all other consulting services necessary for Housing Department real estate development that may not be contained in this RFQ, and involving all development phases including planning, predevelopment, closing, development, construction, lease and operations, and completion.

#### **4. PREFERRED REPOSITIONING/DEVELOPMENT CONSULTANT EXPERIENCE**

The consultant for this project must show evidence of capability to handle the development and ongoing oversight of the revitalization project.

- a. Previous repositioning experience.
- b. Previous experience and success rate in developing a final repositioning configuration plan and financing plan that led to a successful Repositioning Conversion Commitment (RCC).
- c. Previous experience providing development and financial advisory services to Public Housing Authorities.
- d. Previous experience and success in securing financing for mixed finance affordable housing.
- e. Financial capability to complete the project.
- f. Experience/involvement with LIHTC deals in North Carolina.

# EVALUATION FACTORS

## 1. EVALUATION

The following factors will be utilized by CHD to evaluate each proposal submittal received; award of points for each listed factor will be based upon the documentation that the offeror submits within his/her proposal submittal.

All respondents/offerors shall respond to the following criteria:

<b>EVALUATION FACTORS</b>	<b>POINTS</b>
Respondent’s knowledge of the City of Concord and the Concord Housing Department, community’s related needs and demonstrated level of engagement in similar efforts.	<b>20</b>
Statement of Qualifications; Key Personnel and Resumes: Respondent must demonstrate how they qualify to perform what is specified in the Scope of Services	<b>35</b>
Experience and Capacity: Respondent must provide evidence that they have relevant experience in successfully accomplishing what is specified in the Scope of Services.	<b>20</b>
Approach to the Project: Respondents must describe their specific methods or processes for advising on matters in the Scope of Services.	<b>20</b>
Section 3/Minority/Women Business Enterprises	<b>5</b>

A contract will be awarded to the responsible firm whose qualifications and other factors considered, are the most advantageous to the CHD.

# PROPOSAL INSTRUCTIONS

## 1. POINT OF CONTACT

All **questions** related to this RFQ prior to the selection of an offeror should be submitted before **Wednesday, August 17, 2022 at 3:00 P.M. EST** in writing and directed to:

Mary L. Powell- Carr  
Community Development Manager,  
City of Concord  
Email: [carrm@concordnc.gov](mailto:carrm@concordnc.gov)  
Phone: 704-920-5142

## 2. FORMAT AND CONTENT OF PROPOSALS

When responding to this RFQ, submit the following information in the order specified below. Be sure to address in your response all factors in section 3.1.

**TAB 1:** Letter of Interest Signed by Official Authorized to Bind the Company

**TAB 2:** Previous Experience

**TAB 3:** Approach References

**TAB 4 :** Completed Vendor Form and W-9 (Attachment A)

**SEPARATE SEALED ENVELOPE:** Fee structure for proposed services

## 3. GENERAL INFORMATION

- a. Prepare the proposal in a practical, legible, clear, and straightforward manner.
- b. Answer each evaluation factor completely. Refer to Section III, Evaluation Factors, for the evaluation factors that will be used to evaluate proposals. Any omissions must be completely explained and justified.
- c. The proposal shall be signed by an official authorized to bind the company.
- d. Proposals submitted are irrevocable for 90 days following the closing date. This period may be extended at the Housing Department's request only with the offeror's written consent.
- e. Any actual offeror may protest the solicitation or selection of a contractor for serious violations of the principles of this statement. Any protest against a solicitation must be received before the due date for receipt of proposals, and any protest against the selection of a contractor must be received within ten (10) calendar days after contractor selection, or the protest will not be considered. All protests shall be in writing, and shall be directed to Mary L. Powell-Carr – 35 Cabarrus Ave. W, Concord, NC 28025. A written decision on the matter shall be issued. Procurement may be suspended pending resolution of the protest, if warranted by the facts presented.
- f. Cancellation of solicitations: This RFQ may be canceled before offers are due if: CHD no

longer requires; CHD can no longer reasonably expect to fund the procurement; proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable; or similar reasons.

- g. A solicitation may be canceled and all proposals that have already been received may be rejected if: no longer required; ambiguous or otherwise inadequate specifications were part of the solicitation; the solicitation did not provide for consideration of all factors of significance to CHD; prices exceed available funds; there is reason to believe that proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or for good cause of a similar nature when it is in the best interest of the Housing Department.
- h. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request to any offeror solicited.
- i. A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any solicitation or future procurement of similar items.



# SUBMITTAL

## **1. FORM OF SUBMITTAL**

Submit one (1) clearly labeled original and three (3) copies of your qualifications proposal and completed Attachment A in a sealed package, addressed as follows:

**Angela J. Graham, Housing Director  
City of Concord Housing Department  
283 Harold Goodman Circle SW,  
Concord, NC 28025**

## **2. DELIVERY OF PROPOSAL**

The Request for Qualifications shall be properly addressed as shown above and delivered or mailed so that the proposal is received on or before the response date and time.

Requests for extension of this date or time shall not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Housing Department; please note that daily mail through the U.S. Post Office regularly arrives at CHD after 2:00 PM. Proposals received by CHD after the closing time and date will not be considered, unless conditions apply per Section 6 of form HUD-5369-B, "Instructions to Offerors – Non-Construction." Proposals delivered by e-mail or facsimile shall not be considered. CHD does not accept responsibility for late or mis-delivered proposals.

## **3. RESPONSE DATE AND TIME**

The response date and time is:

**Wednesday, September 7, 2022, at 10:00 A.M. EST**

# AMP Description

## Development Summary Information

Approved as of : 6/3/2022

ACC Units						
General Occupancy	Elderly/Disabled	Non-Dwelling	Other	Total ACC Units	Non ACC Units	Total Units
174	0	0	0	174	0	174

Unit Designation	0 Bedroom	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms	5+ Bedrooms	Total
Elderly/Disabled Units	0	0	0	0	0	0	0
General Occupancy	0	33	62	69	10	0	174
Total	0	33	62	69	10	0	174

# Instructions to Offerors Non-Construction

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

## Exhibit A

### 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, offerers should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

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

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

#### 7. Contract Award

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

(b) The HA may

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

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

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

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

#### 8. Service of Protest

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

#### 9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. 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 ensure 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:]

**Contract Provisions Required by Federal Law or Owner  
Contract with the  
U.S. Department of Housing and Urban Development**

**Federal Law or Owner Contract  
with the U.S. Department of  
Housing and Urban Development****and Urban Development**  
Office of Public and Indian Housing

(exp. 3/31/2020)

Public reporting burden for this collection of information is estimated to average 3 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. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

These contracts between a HUD grantee (housing agency (HA)) and an architect/engineer (A/E) for design and construction services do not require either party to submit any materials to HUD. The forms provide a contractual agreement for the services to be provided by the A/E and establishes responsibilities of both parties pursuant to the contract. The regulatory authority is 24 CFR 85.36. These contractual agreements are required by Federal law or regulation pursuant to 24 CFR Part 85.36. Signing of the contracts is required to obtain or retain benefits. The contracts do not lend themselves to confidentiality.

**1.0 Contract Provisions Required by Federal Law or Owner Contract  
with the U.S. Department of Housing and Urban Development (HUD).**

**1.1 Contract Adjustments.** Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2

and conform to the Contract pricing provisions of 24 CFR 85.36 (f).

**1.2 Additional Services.** The Owner shall perform a cost or price analysis as required by 24 CFR 85.36 (F) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

**1.3 Restrictive Drawings and Specifications.** In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

**1.4 Design Certification.** Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235), the Design Professional shall provide such a certification to the Owner.

**1.5 Retention and Inspection of Records.** Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

**1.6 Copyrights and Rights in Data.** HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfil the requirements of the construction contract.

**1.7 Conflicts of Interest.** Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his or her immediate family,
- (iii) His or her partner, or
- (iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

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

1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of \$10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be affected and basis for settlement.

1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, 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 from it.

1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee 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.

1.12 Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban

Development Act of 1968.

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.

G. Reserved.

H. Reserved.

1.13 Reserved.

1.14 Clean Air and Water. (Applicable to contracts in excess of \$100,000). Because of 24 CFR 85.36(i) (12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of \$100,000.

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1.15 Energy Efficiency. Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex, national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe's powers of self- government.

1.18 Prohibition Against Liens. The Design professional is Prohibited from placing a lien on the Owner's property. This prohibition shall be placed in all design professional subcontracts.



# Certifications and Representations of Offerors

## Non-Construction Contract

**Exhibit C**

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 non-construction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offers 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/offers represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offers, the bidder/offers:

- (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/offers shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offers 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/offers 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/offers 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/offers 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/offers, directly or indirectly, to any other bidder/offers 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/offers 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/offers'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/offers's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offers'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 Contract Conditions Non-Construction

OMB Approval No. 2577-0180 (exp. 4/30/96)

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 (2577-0180), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

## 1. Definitions

The following definitions are applicable to this contract:

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

## 2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause **Disputes**, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

## 3. Disputes

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

Contractor has (1) given the notice within the time stated in paragraph (c) above, and (2) excepted its claim relating to such decision from the final release, and (3) 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.

(d) 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.

## 4. 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: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) 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 (1) 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)(2) above, and compensation be determined in accordance with the **Changes** clause; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owed 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 affected for the convenience of the HA, and the Contractor shall be titled 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.

## 5. 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.

## 6. 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.

## 7. 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 (1) appeals under the clause titled **Disputes**, (2) litigation or settlement of claims arising from the performance of this contract, or (3) 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.

## 8. 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:

- (1) Award of the contract may result in an unfair competitive advantage; or
- (2) 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.

## 9. 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.

## 10. 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.

## 11. 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 therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

## 12. 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.

## 13. 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:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and,
- (5) 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. 4508). 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:

(1) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;

(2) A member of the uniformed services as defined in section 202, title 18, U.S.C.;

(3) A special Government employee as defined in section 202, title 18, U.S.C.; and,

(4) 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.

consistent with the amount normally paid for such services in the private sector.

"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.

(1) 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.

(2) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(A) The prohibition on the use of appropriated funds, in paragraph (1) 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.

(8) For purposes of paragraph (b)(2)(i)(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)(2)(i)(A) of this clause are permitted under this clause.

(ii) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of-

(1) 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.

(2) 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 repositioning associations.

(B) For purposes of subdivision (b)(2)(ii)(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)(2)(ii)(A)(1) and (2) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

The prohibition on the use of appropriated funds, in subparagraph (b)(1) 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:

(A) 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

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

(c) 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.

(d) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to a 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.

(e) 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.

#### 14. 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) upgRepositioning, (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 subcontract 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.

#### 15. 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.

#### 16. 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.

#### 17. 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

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contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

#### 18. Liens

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

#### 19. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135) (Applicable to contracts in excess of \$500,000)

(a) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of section 3 of the HUD Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

(b) The parties to this contract will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR part 135, and all applicable rules and orders of HUD issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

(c) The contractor will send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding, if any, a notice advising the organization of the contractor's commitments under this clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(d) The contractor will include this clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR part

135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of these regulations and will not award any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(e) Compliance with the provisions of section 3, the regulations set forth at 24 CFR part 135, and all applicable rules and orders of HUD issued thereunder prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to follow these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which the Federal assistance is provided, and to such sanctions as are specified by 24 CFR part 135.