



The HOUSING AUTHORITY OF PRINCE GEORGE'S
REQUEST FOR PROPOSALS
INVESTMENT BANKING/BOND UNDERWRITING SERVICES
RFP NO. 2021-103

Issue Date: March 11, 2021

Proposal Due Date: April 6, 2021 at 2:00 PM (EST.)



HOUSING AUTHORITY OF PRINCE GEORGE'S COUNTY

REQUEST FOR PROPOSALS FOR
INVESTMENT BANKING/BOND UNDERWRITING SERVICES

RFP NO. 2021-103

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Attachments:

Exhibit 1 – HUD Forms

- a) Instructions to Offerors - Non Construction (HUD -5369-B)
- b) Certifications and Representations of Offerors – Non Construction (HUD 5369-C)
- c) General Conditions for Non-Construction Contracts (HUD 5370-C)

Exhibit 2 – HAPGC Submissions Forms

- Attachment A- Special Participation Summary (M/WBE)
- Attachment B- Section 3 Business Certification
- Attachment C- Cost Proposal
- Non-Collusive Affidavit
- Sample Insurance
- W-9

REQUEST FOR PROPOSALS

RFP NO. 2021-103- Investment Banking/Bond Underwriting Services

Housing Authority Prince George's County (**HAPGC**) is currently accepting proposals for Investment Banking/Bond Underwriting Services.

E-Mailed Proposals shall consist of one (1) complete PDF version of the proposal with all materials as listed in the RFP to the submission e-mail provided in the RFP.

HAPGC reserves the right to reject any or all proposals.

All questions for the RFP must be submitted in writing and e-mailed to HAPGC, at hapgcprocurement@co.pg.md.us no later than **1:00 p.m. EST on Tues., March 23, 2021.**

PRE-PROPOSAL MEETING:

**DUE TO COVID-19
CONFERENCE CALL ONLY**

Friday, March 19, 2021 at 11:00 a.m. EST

Dial-in Number: (425) 436-6395

Meeting ID: 2006378

RFP DUE DATE/TIME: Tuesday, April 6, 2021 at 2:00 p.m. EST

Attn: Nathan Sims, Executive Director

RFP No. 2021-103-Investment Banking

9200 Basil Court, Suite 500

Largo, MD 20774

Solicitation documents are available through our website at <https://princegeorgescountymd.gov/Bids.aspx>

SECTION I – INTRODUCTION

The Housing Authority of Prince George’s County (HAPGC) is a public body corporate and politic and an instrumentality of Prince George’s County and the State of Maryland. HAPGC is empowered to, among other things, issue notes and bonds for the purpose of providing monies for the financing of affordable housing within Prince George’s County, Maryland. HAPGC has participated in the financing of multifamily affordable housing through its tax-exempt bond program, in the past, to include the use of tax-exempt notes and tax-exempt bonds, combined with four-percent (4%) Low Income Housing Tax Credits (LIHTC).

Annually, the HAPGC receives a Volume Cap allocation of approximately \$32.0 million (MM) from the State of Maryland. Over the past few years, the organization has not actively pursued opportunities to use these sources of financing, however we are actively looking forward to our reentry in to this market.

At present, the HAPGC has approximately \$90MM in allocation potential to be used for project financing that meet our specifications, thresholds and missions for affordable housing, within the county.

The HAPGC seeks to retain Investment Banking/Underwriting Services for its Bond Financing Program (BFP) and submits this RFP and the following qualification requirements for your organization’s review and response.

SECTION II – SCOPE OF SERVICES

Services to be provided are both general in nature and specific financing related services. The HAPGC’s scope of services for Investment Banking/Bond Underwriting Services include:

1. Serve as senior manager, co-manager, and/or selling group member in connection with the issuance and/or placement of Tax-exempt bonds or Tax-exempt notes.
2. Helping the HAPGC develop the structure of debt issuances including tax-exempt bonds, tax-exempt notes, and credit enhancements required to promote the marketability of these financial instruments.
3. Advising the HAPGC on issues related to security for the bonds financing transactions, covenants that will be necessary to market the bonds, principal repayment schedules, fiduciary cost, and the elasticity of incremental service fees.
4. As required, assist the HAPGC in developing and presenting information to tax-exempt bond investors, rating agencies and public officials.
5. Provide primary and secondary market support to the HAPGC bond financing program as required.
6. Act as the lead underwriter in the management of an underwriting syndicates who may from, time-to-time, be involved in the sale of new offerings of tax-exempt bonds to investors.
7. Advise the HAPGC on issues relating to compliance with regulatory requirements.
8. If required, the underwriter would also deal with rating agencies such as Moody’s and Standard & Poor’s in obtaining ratings on publicly sold bonds.
9. Be primarily responsible for negotiating premiums and covenants on behalf of the issuer.

SECTION III – PROPOSAL SUBMISSION

Firms submitting proposals should fully read and comprehend all applicable HUD forms as provided in Exhibit 1.

Respondents must submit **one (1) complete PDF version to the e-mail address listed below.** Proposals must be received in the same order as listed in **Section V: Format/Content...**, along with the completed forms attached herein. Proposal must be received by **2:00 PM eastern standard time, April 6, 2021:**

Solicitation E-mail: HASolicitation@co.pg.md.us

SECTION IV – ADMINISTRATIVE INFORMATION

A. Terms and Conditions

Under this RFP, the HAPGC selection process will result in awarding one (1) Investment Banking/Bond Underwriting Services contract to the selected qualified respondent determined to be in the best interest of the Housing Authority's Bond Financing Program. HAPGC intends to enter into a three-year relationship with the selected firm.

This three (3) year term is subject to satisfactory performance. HAPGC has the sole option to extend the relationship up to two (2) additional one (1) year periods. HAPGC reserves the right, in its sole discretion, to end the term of service or change the status or role for any firm selected, pursuant to this RFP. HAPGC reserves the right to make changes, at any time, before the expiration of the stated term of service and to add firms not initially selected pursuant to this RFP to its underwriting team at any time during the stated term of service. HAPGC cannot guarantee bonds will be issued during the engagement period.

B. Point of Contact

The Housing Authority's sole point of contact is the Procurement Office, so please send all inquiries to hapgcprocurement@co.pg.md.us. Phone - 301- 883-2281. For the purpose of submittal under this RFP.

C. Request for Information

A prospective responder may request an explanation or interpretation of information contained in this RFP by submitting your request, via email address above. Any request for an explanation or interpretation of information, related to this RFP, may be posted to the HAPGC website as an addendum, under this solicitation.

D. Amendments/Addendums to the RFP or Bid Proposal and Withdrawal of Bid Proposal

HAPGC reserves the right to amend this RFP at any time. Any amendments will be posted on the Authority's website (<https://www.princegeorgescountymd.gov/Bids.aspx>). Firms are advised to check the Authority's website periodically for amendments/addendums to this RFP, prior to firm's submission.

Firms shall acknowledge receipt of any and all amendments to this proposal. If an amendment occurs after the closing date for receipt of bid proposals the Authority may, in its sole discretion, allow firms to amend their bid proposals in response to the amendment, addendum, as applicable.

A firm may amend its bid proposal. The amendment must be in writing, signed by the firm and received by the time set for the receipt of proposals. Firms who submit proposals in advance of the deadline may withdraw,

modify, and resubmit proposals at any time prior to the deadline for submitting proposals. Firms must notify the point of contact in writing if they wish to withdraw their proposals.

SECTION V – FORMAT AND CONTENT OF BID PROPOSAL

- A. Letter of interest (Cover letter) – (Tab 1)
- B. Structure of Organization – (Tab 1)
- a) Type of Organization (e.g., C or S Corp. LLC, etc.)
 - b) Names of Shareholders, Partners, Principals, Board Members, Others (exercising control of the organization).
 - c) Description of the Firms capacity including staff resources.
 - d) Copies Organizational Certifications:
 - i. Certificate of Incorporation
 - ii. Partnership Agreement(s)
 - iii. Certificate of Good Standing
 - e) A corporate resolution signed by the Secretary of the Corporation and notarized, certifying the name of the individual(s) authorized to contract on behalf of the firm.
- C. Firm Information - (Tab 2)
- a) What is the name, address, phone number and email address for the firm’s primary contact person?
 - b) Provide your firm’s office locations in Maryland, the number of Maryland-based employees, the number of public finance personnel in Maryland, if applicable, and the number of Maryland-based retail and institutional accounts your firm covers (if applicable).
 - c) HAPGC strongly values diversity and inclusion among our customers, employees, vendors and partners. Describe your firm’s efforts and activities to promote diversity and inclusion. Please explain how you will apply these practices to the team assigned to HAPGC’s account.
 - d) Describe any relationships that you have with other parties, e.g., brokers or financial advisory firms, regarding fee splitting or consulting/soliciting of business.
 - e) Please describe how your firm reflects HAPGC’s standards for ethics and compliance. Indicate whether or not your firm has any knowledge of any active investigations or criminal proceedings by the Securities and Exchange Commission or any other state or federal agency with regard to your public finance department and municipal trading department members or practices. If so, please provide a brief description of such investigation(s) and the name and phone number of a person whom HAPGC could contact to obtain more information.
 - f) Identify any material litigation, administrative proceedings or investigations regarding your firm that is ongoing or has been settled or otherwise concluded during the past three years.
- D. Firm’s Relevant Experience - (Tab 3)
- a) Provide a brief description of your organization and previous experience in providing bond underwriting services as described in this RFP.
 - b) Describe your firm’s financial wherewithal to underwrite bonds and your firms experience with transactions in last 3 years. Include IDC ratings (if applicable), equity position of the broker-dealer, and other financial resources available to underwrite bonds. Indicate other types of financial resources and services that would be available to HAPGC and how you have used those to assist organizations with financing various projects in the last 3 years.
 - c) What other statewide Maryland issuer(s) or large Maryland issuers have you worked with in the past 3 years? Please provide detail on the size and type of transactions.
 - d) Does your firm have the capacity to market and remarket variable rate bonds in addition to fixed rate bonds? It shall be assumed that your firm will function as Senior Managing Underwriter/Syndicator and Selling Group Manager.

- e) Indicate the total number of staff in your unit and the number of staff that you expect to assign to this engagement. Please list those people with their resumes. Additionally, please list their other responsibilities.

E. Bond Underwriter's Previous Related Experience - (Tab 4)

- a) Describe your firm's financial wherewithal to underwrite bonds and how your firm's experience with transactions in the last three (3) years. Include IDC ratings (if applicable), equity position of the broker-dealer, and other financial resources available to underwrite bonds. Indicate other types of financial resources and services that would be available at the HAPGC and how you have used those to assist organizations with financing projects in the last three (3) years.
- b) Please discuss three engagements that you feel are most similar to the relationship that you envision with HAPGC. What specific challenges were presented in each engagement, and what do you consider some of your successes with each client?
- c) Describe your firm's experience with Housing Authorities (HA) or Housing Finance Authorities (HFA) since January 1, 2016. What HA/HFA's do your firm currently represent, in what capacity and how long has your firm represented each HA/HFA? Please provide three (3) references with names, phone numbers and email addresses of those organizations.
- d) Has your firm ever provided an HA/HFA client with services other than structuring and selling bonds?
- e) How many HA/HFA clients has the firm lost or gained since January 1, 2016? Please provide reason for the loss of any client(s). Has your firm ever been removed from an account prior to the expiration of its contract? If so, please explain. If you wish, list the name of a third party with whom you feel comfortable with the HAPGC discussing the ending of your contractual relationship.
- f) Describe your presence in Maryland, if any, including corporate existence in Maryland, whether formed in Maryland or authorized to do business in the state or Maryland. If your firm currently is not registered with the Maryland Secretary of State, please indicate whether your firm will so register, if your firm is awarded this contract.
- g) Describe your ability to market tax-exempt bonds and place tax-exempt notes, as well as your history of performance in the retail and private-sector markets, since January 1, 2016.
- h) Describe any distribution agreements, including retail distribution agreements your firm uses or contemplates using to market the HAPGC tax-exempt bonds. Please describe the relationship between your firm and the parties to the distribution agreements. Discuss how bonds and fees are allocated among the various parties.
- i) What factors should the HAPGC weigh in evaluating underwriters' proposals and what considerations should predominate in structuring an underwriting syndicate?
- j) Why should the HAPGC hire your firm?

F. Proposed Staffing and Sub-Consultants Responsibilities and Qualifications - (Tab 5)

- a) The firm must provide relative to the Management, Staff persons and Sub-consultants who will engage the HAPGC at various times in the firm's role as Bond Counsel. The firm should attach the following to their submittal:
 - i. Provide background information (resumes) for each Principal, Staff, Sub-consultant who may engage the HAPGC, or its clients, for the purpose of advising, structuring, compliance monitoring, or representing the HAPGC in a bond transaction.

G. Legal Issues - (Tab 6)

- a) Describe in detail any potential conflicts of interest that your firm, affiliates, or parent company may have for this engagement and your method of dealing with such conflicts of interest.
- b) Describe any and all material lawsuits, legal or administrative proceedings, or governmental investigations to include:

- i. Criminal actions or law enforcement activities (including federal, state, local authorities, or self-regulatory organizations).
 - ii. Non-routine Securities and Exchange Commission (**SEC**).
 - iii. Municipal Securities Rulemaking Board (**MSRB**) and Financial Industry Regulatory Authority, Inc. (**FINRA**) inquiries.
 - iv. Investigations relating to your firm or any of your firm's affiliates.
 - v. In the last three years has there been and proceedings to which your firm, your firm's affiliates or any of their respective officers, directors or employees in a named party or of which any of such has been the focus?
 - vi. Is there and knowledge of a pending litigation that bears implications towards any of the firms' respective officers, directors or employees by a regulatory body.
 - vii. Does any of the potential actions of listed in (vi) involve your housing finance professionals?
 - viii. Please summarize any reporting that your firm has made to the SEC, MSRB and FINRA over the past three years in connection with your public finance activities.
- c) The HAPGC strongly values diversity and inclusion among our customers, employees, vendors and partners.
- i. Please submit specific information regarding your firm's commitment to Affirmative Action.
 - ii. Please include, at a minimum, formal internal hiring practices and indications of working relationships with women and minority owned companies.
 - iii. Please include your firm's most recent EEOC report.
- d) Please describe how your firm reflects HAPGC's standards for ethics and compliance. Indicate whether or not your firm has any knowledge of any active investigations or criminal proceedings by the SEC of any other state or federal agency with regards to your public finance department and municipal trading department members of practices. If so, please provide a brief description of such investigation and the name and phone number of a person whom HAPGC could contact to obtain more information.

H. Housing Finance Experience - (Tab 7)

- a) Discuss your firm's Housing Finance team's experience and capabilities with both tax exempt and taxable issuances for single-family and/or multifamily transactions. Please provide a level of depth to your explanation to help us ascertain your firm's strength in handling affordable multifamily transactions.
- b) Identify the members of your Housing Finance team who will manage HAPGC financings on a day-to-day basis. Provide relevant background information and roles and responsibilities for these individuals, including percentage of time each member currently spends on housing transactions. Indicate the expected percentage of services to HAPGC from each member. Explain any changes including additions and departures to your housing team staff of the past 2 years.
- c) Provide a listing of your top five housing finance agency clients, noting whether you serve as Senior Managing underwriter, Co-Managing underwriter, or Selling Group Member. Please include at least three (3) Housing Authority references including their contact information.
- d) Provide a sample list of Housing Authority bond issues in which your firm served as underwriter of the past three years. Indicate your role for each transaction (Senior Manager/book runner, Co-Senior Manager, Co-Manager, Selling Group Member). This list can be presented as an exhibit.
- e) If your firm is currently engaged as a Senior Manager/book runner, Co-Senior Manager, Co-Manager, or Selling Group Member for a Housing Authorities, please describe specific contribution your firm has made to those Housing Authorities since its appointment. If your firm is not a member of a Housing Authority syndicate, please describe specific contributions your firm has made during the past two years for another revenue bond issuer and how we should compare it to a Housing Authority's (tax-exempt volume cap) type transaction.
- f) Discuss your firm's institutional and retail sales capability, especially your ability to market to Maryland investors with examples (if applicable). What mechanisms would you propose to involve Maryland-based firms as Co-Managers or Selling Group Members in the sales distribution of a transaction? What is the appropriate compensation structure to these local firms if the majority pf

the sales are institutional? Describe any competitive strength that you would ascribe to your bond sales area.

- g) What procedures would your firm recommend to optimize the distribution of bonds? In particular, how can the Senior Manager use the Co-Managers and Selling Group to improve the pricing on and expand the distribution of HAPGC's bonds? What mechanism would you recommend for reporting on and monitoring the sales performance of participants in the syndicate?
- h) Please discuss your recommended structure for HAPGC's financing team, i.e., Senior Managers, Co-Managers, Selling Group Members, etc., and the advantages and disadvantages of variously sized terms for Single-family and/or Multifamily transactions. Include your thoughts about including local regional firms and women and minority-owned firms on the financing team.
- i) Explain why your firm's underwriting, sales and trading teams are more capable than other firms?

I. Fees - (Tab 8)

- a) Provide a fee proposal for legal work connected with the issuance of new bonds in the HAPGC's BFP. The proposal may be on a per \$1,000 bond basis inclusive of all expenses or an hourly charge with a not to exceed cap. Such fees will only be paid upon the issuance of the new bonds.
- b) Provide a fee proposal for the hourly rates that would be charged for work legal work done in connection with the renegotiation of agreements on already outstanding bonds or other general legal work to be paid separately from fees paid in connection with the issuance of new bonds. This work could include the negotiation of remarketing agreements, standby bond purchase agreements, and swap contracts.
- c) Describe your firm's underwriter discount management fees, structuring fees, takedown and other expenses for each type of transaction you'd like us to consider for your firm.
- d) Although proposed fees will be taken into account, HAPGC reserves the right to negotiate a lower or different fee structure with any firm as part of the review and selection process.

J. Minority and Women Business Participation - (Tab 9)

An MBE is a legal entity other than a joint venture, organized to engage in commercial transactions, that is at least fifty-one percent (51%) owned and controlled by one or more minority persons (e.g., African-Americans, Hispanic-Americans, Native-Americans, and Asian-Americans). An WBE is defined as a legal entity other than a joint venture, organized to engage in commercial transactions, that is at least fifty-one percent (51%) owned and controlled by a female.

- a) It is the policy of the HAPGC to ensure that Minority Business Enterprises (**MBEs**) and Women-owned Businesses (**WBEs**) are provided opportunities to participate in contracts administered by HAPGC. If your firm claims MBE or WBE status, please provide evidence of that claimed status. Complete the certification provided in Exhibit 2.
- b) If your firm claims MBE or WBE status, please provide evidence of that claimed status. If none, please indicate by (N/A) under this section in your response to the RFP.

K. Conflict of Interest

- a) Does the firm, any principal or affiliate of the firm, or anyone who will be paid for work pursuant to the RFP have business ties, familial relationships, or other close personal relationships with a current HAPGC employee or commissioner or anyone who was a HAPGC employee or commissioner within the past year? If yes, describe.

L. Compliance Requirements

- a) The HAPGC requires that all legal services performed are in compliance with all rules, regulations and requirements of Mixed-Finance Development set forth at 24 C.F.R. Part 941 and all other applicable Federal, State, and Local regulations.

SECTION VI - PROPOSAL EVALUATION PROCESS

The evaluation process described in this RFP is intended to enable HAPGC to select the firm that provides the best value in meeting HAPGC's needs as the entity utilizing tax-exempt bonds and tax-exempt notes to finance affordable housing in Prince George's County, Maryland.

Proposals received by the stated deadline will be provided to an Evaluation Committee (**EC**). The EC will evaluate each responder's proposal based on the criteria outlined in this RFP. The EC will utilize an objective scoring model to score each proposal. Once all scoring has been completed the EC will submit the scores of the three (3) top scoring firms, based on the aggregate of each firms' scores, to the Housing Authority's Executive Director.

EXPERIENCE FACTORS	<u>POINTS</u>
General quality and conciseness of response	5
Firm's knowledge and experience of tax-exempt bonds, affordable housing financing	15
Qualifications/depth/strength of firm	10
Experience with transactions involving tax-exempt bonds and tax-exempt notes	10
Knowledge and experience in the market	10
Fee structure (Partner, Associates, etc.)	10
Experience with state statutes, bond law and federal tax law	15
Ability to meet schedules, due diligence, reference check	10
Demonstrated commitment to diversity and inclusion practices	5
MBE/WMBE status	5
TOTAL POINTS	100

The top three (3) scoring firms may be invited to participate in a video conference presentation, with the Executive Director, and members of the EC present. Following the video conference presentations, the three remaining firms will receive a final objective score. The final scoring will be provided to the Executive Director for review.

The Executive Director will then select the firm to proceed, subject to the approval by the HAPGC Board of Commissioners. Proposals will be evaluated and scored based on experience factors above:

SECTION VII- ADDITIONAL INFORMATION

- A. The HAPGC makes no representation or warranty of any nature that any firm selected pursuant to this RFP will participate in any minimum or maximum number of financings, or in financings that involve any minimum or maximum dollar amounts.
- B. The HAPGC reserves the right to seek clarification of each proposal and the right to negotiate a final contract in its best interest, considering cost effectiveness and the level of time and effort required for the services.
- C. The HAPGC reserves the right to reject any or all proposals, without liability, at its sole discretion.
- D. The HAPGC reserves the right to cancel this solicitation, without liability, at its sole discretion.

- E. HAPGC is not responsible for any costs that respondents incur while submitting proposals. Firms responding to this solicitation do so solely at their own expense.
- F. From the date of issuance of this RFP to the successful bidder's announcement, all contact with the HAPGC related to this solicitation must be with the Procurement Office only. Violation of this provision may result in the disqualification of the bidding firm's proposal.
- G. The term for providing bond counsel services resulting from this RFP shall be for an initial period of up to three (3) years. The term may be extended up to two (2) additional years at HAPGC's discretion and by mutual agreement.
- H. If the HAPGC is unable to negotiate a mutually satisfactory contract with its first choice, it may, in its sole discretion, negotiate with its secondary choices or cancel and reissue a new RFP or retain counsel through another selection method.

HAPGC NONDISCRIMINATION NOTICE:

HAPGC does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, physical or mental disability, age, familial status or receipt of public assistance in the admission or access to or treatment in its programs and activities. In employment, HAPGC does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability or genetic information. HAPGC will provide appropriate communication auxiliary aids and services upon sufficient notice. HAPGC will also provide this document in alternative formats upon sufficient notice.

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

Please note that additional conditions, specifications and instructions pertaining to this RFP are contained within the RFP document issued.

Certifications and Representations of Offerors

Non-Construction Contract

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

- (a) is, is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) is, is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) is, is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

4. Organizational Conflicts of Interest Certification

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp.

3/31/2020)

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

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

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

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

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

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

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

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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

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

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

ATTACHMENT

Special Participation Summary
(M/WBE)

Attachment
SPECIAL PARTICIPATION SUMMARY

Respondent: _____ RFP No. _____

Due Date:

I. Small Business Participation

Is the Offeror a Small Business as defined
 By the size and standards in 13 CFR 121? Yes No

II. Minority Business Participation

Is the Offeror classified as a Minority
 Business Enterprise as defined in Art. 2,
 Part C of HUD-5369-C? Yes No

If “No”, any Consultants classified as
 Minority Business Enterprises? Yes No

If “Yes”, please fill in the following Chart:

Consulting Firm(s) (MBE)	\$ Value Contract	% of Fee

III. Women-Owned Business Participation

Is the Offeror classified as Woman-
 Owned Business Enterprise as defined
 In Art. 2, Part C of HUD-5369-C Yes No

If “No”, any Consultants classified as
 Women-Owned Business Enterprise? Yes No

If “Yes”, please fill in the following chart:

Consulting Firm(s) (WBE)	\$ Value Contract	% of Fee

** All M/WBE firms must be certified. In order for the M/WBE participation plan to be complete, copies of M/WBE certification must be included for all firms listed.

ATTACHMENT

Section 3 Business Certification

Attachment

SECTION 3 BUSINESS CERTIFICATION

I, _____, hereby certify that the business
(print name and title)

entity known as _____

(please check one) satisfies does not satisfy

one or more of the definitions of a Section 3 Business Concern:

If you are a section 3 Business Concern, please select the basis of certification:

___ Status as a section 3 resident-owned enterprise (at least 51% owned by Section 3 residents);

___ At least 30% of permanent, full-time employees are currently Section 3 Resident or were Section 3 resident within the past 3 years;

___ Commitment to subcontract 25% of the dollar awarded to qualified Section 3 business (Only applicable to prime contractors).

I hereby certify that the information provided here is true and correct and understand that any falsification of any information provided could be subject me to disqualification and punishment under the law.

Authorized Name and Signature

Date

Witness Name and Signature

Date

ATTACHMENT



Cost Proposal

Attachment
COST PROPOSAL

Company Name (Printed): _____

Name (Printed): _____

Title: _____

Address: _____

Phone/Fax: _____

Email Address: _____

Signature: _____

PRICE IS TO BE LISTED PER THE FOLLOWING:

Per Hour Rate

Director/President: _____

Manager: _____

Shareholder/Partner: _____

Counsel/Attorney: _____

Associates/Member: _____

Law Clerks: _____

Paralegal/Legal Assistant: _____

EXPENSES:

Courier, Postage, Overnight Mail: _____

Printing, Photocopies/Copies: _____

Filings Fees: _____

Faxes, Telephone Calls: _____

Travel: _____

Mileage: _____

Out of Pocket: _____

Note: Any additional charges not listed should be duly noted on firms proposal under cost.

**FORM OF NON-COLLUSIVE AFFIDAVIT
(PRIME BIDDER)**

State of _____

County _____, being first duly sworn, deposes and says:

That he/she is _____, the party making the foregoing proposal or bid, and attests to the following:

- (1) That affiant employed no person, confirmation, firm, association, or other organization, either directly or indirectly, to secure the public contract under which he received payment, other than persons regularly employed by the Affiant whose services in connection with the construction of the public building or project in securing the public contract were in the regular course of their duties for Affiant; and
- (2) That no part of the contract price received by Affiant was paid to any person, corporation, firm, association or other organization for soliciting the contract, other than the payment of their normal compensation to persons regularly employed by the Affiant whose services in connection with the construction of the public building or project were in the regular course of their duties for Affiant.
- (3) That such proposal or bid is genuine and not collusive or sham; that said Bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any Bidder or person, to put in a sham bid or try to refrain from bidding, and has not in any manner directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of Affiant or of any other Bidder, or to fix any overhead, profit, or cost element of said bid price, or of that of any other Bidder, or to secure any advantage against the Housing Authority or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Signature*

*Bidder if the Bidder is an individual; all partners if Bidder is a partnership; officer if the Bidder is a corporation.

SUBSCRIBED AND SWORN TO before me, this the _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires: _____, 20_____

ACORDTM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)

THIS CERTIFICATE IS ISSUED AS MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

Date the Certificate is issued

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

1 This block identifies the Agent or Broker and their address.

2 This block may include contact information for the broker / agency. It's often helpful to contact the broker directly for clarification, revision requests or renewal certificates. Some agencies will only communicate with their insureds and do not allow or respond to 3rd requests.

INSURER(S) AFFORDING COVERAGE

3 The insurance company will be identified here. The insurer letter appears again in the left-hand margin near the center of the page (***3**) to show which insurer provides which type of coverage.

INSURED
4 The Insured is Vendor, Contractor or lessee (the policy holder).

- INSURER A:
- INSURER B:
- INSURER C:
- INSURER D:
- INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
*3	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXPENSE (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS-COMP/OP AGG \$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT				
*3	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY-EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	GARAGE LIABILITY ANY AUTO				EACH OCCURRENCE \$ AGGREGATE \$
*3	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				
	WORKERS' COMPENSATION AND EMPLOYERS LIABILITY				WC STATUTORY LIMITS OTH-ER
*3	OTHER				E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

5 These sections show only the coverages provided through the agent or broker identified in "1" above. If the insured uses more than one broker, a separate certificate is needed to show those coverages.

6 These two column shows inception and expiration dates for policies identified. Pay special attention that coverage does not expire before or during your project or lease.

The coverages & limits required in the solicitation, or those which are applicable to the projects scope of work MUST be included on the certificate.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL/PROVISIONS

7 HA Prince George's County is endorsed as additional insured on the general and auto liability policies on a primary and non-contributory basis.

CERTIFICATE HOLDER

8 [Firm Name]
[Address]
ATTN: PM contact or Procurement Team

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

9 Must be signed by an authorized representative of the brokerage agency.

