

**Real Estate & Development Legal Services**

**Contract #2022-07**



Harrisburg Housing Authority  
351 Chestnut Street  
Harrisburg, PA 17101-2785  
(717) 232-6781  
Dated: December 1, 2022

An Equal Opportunity Employer  
An Equal Housing Provider



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**Forms required to be completed and returned:**

- Form of Proposal
- Vendor Information Form
- HUD 5369-A
- HUD 50071

**Informational Forms Only:**

- HUD 5369-B
- HUD 5370-C Section I
- Sample Form of Contract

## Request for Proposals

The Harrisburg Housing Authority will accept Proposals for Indefinite Quantity Contracts for the following services:

Contract #**2022-05** – General Counsel Legal Services

Contract #**2022-06** – Labor & Employment Legal Services

Contract #**2022-07** – Real Estate & Development Legal Services

Proposals must be submitted electronically via our E-Procurement website. All submissions must be received and time stamped no later than 12:00 noon, December 20, 2022. Fax or email submissions will not be accepted.

RFP documents will be available electronically December 4, 2022 at [www.harrisburghousing.org](http://www.harrisburghousing.org) (follow vendor registration link to our E-Procurement Vendor's web site). All parties interested in any project must register as a vendor by visiting our website [www.harrisburghousing.org](http://www.harrisburghousing.org). Follow registration link under "Vendor."

Questions and requests for information about the content of the documents shall be directed, in writing, to Lori Shope via the E-Procurement website, no later than 12:00 noon, December 15, 2022.

The HHA reserves the right to reject any or all proposals and waive any informalities.

HARRISBURG HOUSING AUTHORITY

Peter M. Hammerle, Chair

Senghor A. Manns, President/CEO



## Purpose

This Request for Proposal (RFP) is issued by the Harrisburg Housing Authority ("Agency" or "Authority"). The Agency invites proposals from qualified attorneys, legal team(s), or law firms to provide Real Estate and Development Legal Services legal advice and support.

The Agency will use the proposals to evaluate the attorney(s) or firm(s)/team(s) that can best assist the Agency in fulfilling its operational and programmatic objectives as required under the scoring criteria set forth herein. The term "responder" as used in this RFP shall mean the Firm, team, or individuals submitting responses for consideration by the Agency.

## Background

The HHA is a nonprofit quasi-governmental entity originally created by the City of Harrisburg for the acquisition, development, modernization, operation, and administration of public housing programs. The primary purpose of HHA is to provide safe, decent, sanitary, and affordable housing to the elderly and low-income families in the City and to operate housing programs in accordance with Federal, State and Local legislation. The HHA currently owns and/or manages approximately 1,640 low-income Public Housing units and administers 1,204 Housing Choice Program vouchers.

### Properties of the Harrisburg Housing Authority

WILLIAM HOWARD DAY HOMES	(PA 8-1)	HOVERTER HOMES	(PA 8-2)
JOHN A.F. HALL MANOR	(PA 8-3)	HILLSIDE VILLAGE	(PA 8-4)
M.W. SMITH HOMES	(PA 8-5)	JACKSON TOWER	(PA 8-6)
MORRISON TOWER	(PA 8-7)	LICK TOWER	(PA 8-9)
SCATTERED SITES	(PA 8-10)		

### Description of the Properties

Name of Development	# Units	Type of Units	Location
William Howard Day Homes	218	Efficiencies & 1, 2, 3, 4 Bedroom	1300 Community Drive Harrisburg PA 17103
George A. Hoverter Homes	233	Efficiencies & 1, 2, 3, 4 Bedroom	1260 Oyler Road Harrisburg PA 17104
John A.F. Hall Manor Homes	538	1, 2, 3, 4 Bedroom	17 <sup>th</sup> & Hanover Street Harrisburg PA 17104
Hillside Village	70	2, 3 Bedroom	12 <sup>th</sup> & Reily Street Harrisburg PA 17103
M.W. Smith Homes	80	2, 3, 4 Bedroom	Cameron & Calder St Harrisburg PA 17103
Jackson Tower	159	Efficiencies & 1 Br-(Elderly) High-Rise-(13 stories)	1315 N. 6 <sup>th</sup> Street Harrisburg PA 17102
Morrison Tower	119	Efficiencies & 1 Br-(Elderly) High-Rise-(12 stories)	351 Chestnut Street Harrisburg PA 17101
Lick Tower	144	Efficiencies & 1 Br-(Elderly) High-Rise-(13 stories)	1301 N. 6 <sup>th</sup> Street Harrisburg PA 17102
Scattered Sites	79	2, 3, 4, 5 Bedroom	Various Locations
<b>Total Units</b>	<b>1,640</b>		

## Affiliate Properties

<b>Current Address Compliment</b>		
<b>Uptown Lots</b>		
<b>Address</b>	<b>Parcel</b>	<b>Acreage</b>
611 Forrest St	10-019-011	0.04
613 Forrest St	10-019-010	0.04
615 Forrest St	10-019-009	0.03
617 Forrest St	10-019-008	0.04
619 Forrest St	10-019-007	0.03
621 Forrest St	10-019-006	0.03
623 Forrest St	10-019-005	0.03
625 Forrest St	10-019-004	0.02
627 Forrest St	10-019-003	0.03
629 Forrest St	10-019-002	0.03
2132 Jefferson St	10-019-016	0.02
2133 Jefferson St	10-012-050	0.03
2137 Jefferson St	10-012-048	0.04
2141 Jefferson St	10-012-046	0.04
2143 Jefferson St	10-012-045	0.04
2145 Jefferson St	10-012-044	0.03
2146 N. 6th St	10-026-005	0.04
2148 N. 6th St	10-026-004	0.06
2238 N. 6th St	10-025-010	0.06
2294 N. 6th St	10-025-003	0.03
2296 N. 6th St	10-025-002	0.03
2298 N. 6th St	10-025-001	0.03
2300 N. 6th St	10-024-024	0.04
<b>North 6th Street Apts</b>		
2508 N. 6th St	10-022-017	0.1
2512 N. 6th St	10-022-016	0.1
2516 N. 6th St	10-022-015	0.11

## Scope of Work

At a minimum, any award will include a three-year contractual term with an option to renew. The Agency will not, however, guarantee a minimum or maximum number of billable hours or work to the successful responder(s). Work will be assigned via task order for specific Agency needs.

Each responder to this RFP shall be capable of performing the services, and all such offerors in their proposals should specifically detail their experience and ability to provide each of the services listed below.

The qualified responder will be admitted to practice in the highest court in the jurisdiction in which the Firm primarily operates and be capable of admission to practice in the U.S.D.C. for the Middle District of Pennsylvania and the U.S. Court of Appeals for the 3<sup>rd</sup> Circuit. Admission to practice before the Supreme Court of Pennsylvania will be a plus. Counsel will be familiar with Pennsylvania law regarding public bidding and procurement of goods and services, understand the operation and administration of the Pennsylvania Civil Service Act, and be familiar with Pennsylvania Landlord / Tenant Law.

### Services:

#### *Construction Law:*

The Agency requires legal assistance including, but not limited to: construction contract drafting and review, construction insurance law, construction litigation, Pennsylvania statutory compliance issues, payment bonds/performance bond issues, demolition and disposition issues, premise liability issues, defect issues, government project disputes, bid protests and disputes, defective or ambiguous specification claims, delay and disruption claims, etc.

#### *Real estate and Development:*

The following areas include but are not limited to issues regarding: home ownership issues, drafting and reviewing real estate contracts, preparing and reviewing loan documents, title examinations, representation at closing, handling real estate and financing transactions, including: rezoning, variance, and land use issues and consulting, land planning and development consulting, entity structure, financing and implementation, property management analysis and consulting, build to suit/design build and traditional construction contracts, project development negotiations, project syndication and disposition analysis, purchase agreements and sale agreements, real estate litigation, environmental site assessment, eminent domain, HOPE VI requirements, mixed-finance development issues, replacement housing factor funding advice, low income housing tax credit advice, acquisition and redevelopment of real estate issues, assist in the preparation of evidentiary submissions to the U.S. Department of Housing and Urban Development ("HUD"), the State of Pennsylvania and the City of Harrisburg, etc.

Other areas that may be tasked would be ground leases and/or deeds, regulatory and operating agreements, declaration of restrictive covenants, management agreements, management plans, master development agreements, partnership agreements, Agency certifications, declaration of trusts, title work, zoning compliance issues, board resolutions, organization documents, developer agreements, other project financing documents, tenant leases, etc.

Responders should have knowledge of the current mixed-finance legal structures accepted by HUD; and, understanding of local housing and community development issues in Pennsylvania.

## **Use of Firm's Services:**

There may be occasions where a contracted firm experiences a conflict that may prevent it from representing the Agency in certain matters. While the Agency hopes that no firm would be prevented from providing its services, the Agency reserves the right to utilize any other firm under contract with or without a conflict present.

## **MBE/WBE/DBE**

The Agency has established goals to further contracting opportunities to traditionally disadvantaged firms. As a part of its efforts, the Agency strongly encourages the participation of these firms and/or the partnering with MBE/WBE firms in this proposal process. The Agency also supports the partnering with MBE/WBE firms to meet these goals and/or partnering with firms that support the legal firms, such as, but not limited to, paralegals, transcription, and investigative services. Further information is provided in the policy statement detailed below.

## **Key Staff**

As a part of each Firm's proposal, key staff is to be delineated. Each proposal should also designate a primary firm contact to address any issues or contract concerns. If the Firm designates its service area key staff to fill this role, the proposal should designate this fact.

Included shall be a Self-Certification Regarding Disbarment, Suspension, Ineligibility, and Voluntary Exclusion. Where professional licensures are required, e.g., for the practice of law in the Commonwealth of Pennsylvania, each responder shall sign and submit with their proposal a certification stating that members of its professional or licensed staff that will be performing legal services for the Agency, are not presently debarred, suspended, proposed for disbarment or suspension, before any court, licensing authority, or administrative law tribunal. This shall include all key members of any team/partnership. Furthermore, the responder must not be declared ineligible or voluntarily excluded from providing services or transactions by any federal or state department/Agency. This self-certification must be signed by an individual with authority to legally bind the responder in contract. Failure to provide the certification required by this section may result in the rejection of the proposal as noncompliant.

## **Attorney Requirements**

- A. Currently licensed to practice law in the Commonwealth of Pennsylvania
- B. A member in good standing
- C. Preferably, admitted to practice in the US District Court– Middle District of Pennsylvania

## **Fees**

Pursuant to HUD regulations, the Agency is prohibited from entering into contracts for a percentage of any project or pay expenses with a "cost-plus" markup. The Agency will accept any non-prohibited proposal; however, the responder must include an hourly rate schedule in their proposal.



The Agency reserves the right to reject the fixed or retainer fee approach and contract with the selected Firm solely on the basis of an hourly rate schedule.

Invoices shall be presented monthly and clearly designate task order numbers or descriptive task information. Firms should indicate in their proposals any discounts afforded to the Agency for making immediate payments (i.e. net 10 days), otherwise the Agency shall be allowed a minimum of thirty (30) days to tender payments due.

### **Additional Services**

Should any additional services be required that have not been allocated to a particular service area, the Agency shall have the sole and exclusive right to allocate the service to a firm already under contract.

### **Projects and Tasks**

Once successful firms are under contract, the Agency will assign tasks on an as needed basis. The Agency may request a "cost" or "hourly" estimation for the task. The Agency shall reserve the right to mandate strict adherence to any cost estimation or number of hours projected on a task by the Firm.

At no cost to the Agency, the Firm may be asked to provide a project schedule and plan that will be followed during the course of the project, and periodic status reports.

## **Minimum Requirements**

The Respondent must meet the following minimum requirements to be considered:

- Must meet the appropriate state licensing requirements.  
**(Please attach proof of you and your firm meeting the appropriate Commonwealth of Pennsylvania Licensing requirements; a photocopy of your certificate, license, or permit will serve this purpose).**
- Must have a record of responsible comparable work.
- Must comply with applicable requirements for continuing professional education.  
**(Please attach proof).**
- Must certify that no member of, or delegate to Congress of the United States or City Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise henceforth
- Must warrant that no member or agent of the Firm has employed or contracted any person to solicit or attempt to secure this contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the HHA the right to terminate an award, or, in its discretion, to deduct from the fee the amount of such commission, percentage, brokerage, or contingent fee.
- Must certify that no member of the Firm will assign or transfer any interest in the awarded contracted under this solicitation except for claims for monies due or to become due from HHA

under the contract that may be assigned to a bank, trust company, or other financial institution or pursuant to court order. If the Respondent is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership.

- Must certify that members of the Firm will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The Respondent must certify that it shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, or national origin. Such action, shall include, but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

### **Fee Proposal**

Under Tab 9, complete and include the **per annum** cost schedule for all proposed engagement team members. Also include estimated fees for travel costs (lodging, airfare, rental vehicle/mileage) as well as any other expenses anticipated in the performance of this contract.

### **Contract Term**

This Contract is effective for a period of three (3) years, commencing on the date the Contract is completely executed, unless properly amended or terminated as provided here. The Contract may be renewed by mutual written agreement upon its expiration with two (2) additional one (1)-year renewal periods.

Prior to the execution of this Contract, the CONTRACTOR shall have no authority to begin work under this Contract. The AGENCY'S Contracting Officer and/or designee shall not authorize any payments to the CONTRACTOR prior to such award, nor shall the AGENCY incur any liability to reimburse the CONTRACTOR regarding any expenditure for the purchase of materials or the payment for Services prior to commencement of this Contract. The Contract shall not become effective until the Contract has been approved and signed by the authorities having jurisdiction over this Contract.

## **Response Time Frame and Other Information**

Response submission period:	December 6, 2022 through December 20, 2022 Responses due by <u>12:00 noon, December 20, 2022</u>
Questions/Answer period:	December 4, 2022 through December 15, 2022, at 12:00 noon (via Housing Agency Marketplace web site)
Evaluation period:	December 21, 2022 through December 30, 2022
Interviews (if required):	January 3, 2023 through January 6, 2023
Award:	January 18, 2023 (To conform with the Board of Commissioners Meeting)

Proposals must comply with regulations and statutes relating to procurement in the State of Pennsylvania, the U.S. Department of Housing and Urban Development and the policies of the Harrisburg Housing Authority. The person submitting the proposal must have the authority to bind the organization in a contract. Late submissions will not be considered.

### **One original copy of the proposal will be required by the awarded respondent.**

All costs directly or indirectly related to the preparation of a response to this RFP shall be the sole responsibility of and shall be borne by the respondent.

Requests for all other information must be in writing, via the Housing Agency Marketplace. Questions and responses will then be made available to all respondents. Interested parties may register at <http://www.harrisburghousing.org>, follow vendor registration link, to be re-directed to Housing Agency Marketplace.

It is the expressed policy of the HHA that parties responding to this request refrain from initiating any direct contact or communication with the Acting President, HHA staff, or members of the Board of Commissioners with regard to this RFP during the selection process. Any violation of this policy will be considered a basis for disqualification.

The HHA Board of Commissioners reserves the right to waive any minor informality in any proposal when these actions appear to be in the Housing Authority's best interest, cancel the RFP, reject any or all proposals, make an award based solely on the proposals, or to negotiate further with one or more firms. The HHA Board of Commissioners also reserves the right to reject the proposal of any firm that has previously failed to perform satisfactorily, or has failed to complete, on time, a contract, or contracts of a similar nature. The HHA Board of Commissioners also reserves the right to select the proposal designed to deliver the most favorable overall impact upon the Agency and the right to ask questions, interview or negotiate the services and price before awarding the contract. The HHA reserves the right to withdraw this solicitation at any time.

All proposals received will become a part of the HHA's official files without any obligation on the HHA's part to return submitted material.

The HHA is an equal opportunity employer. The award will be made without regard to race, color, religion, gender, age, mental or physical disability (or history thereof), marital or family status, beliefs, and national origin.

## **Proposal Content & Format**

**Tabbed Proposal Submittal:** The HHA intends to retain the successful Respondent pursuant to a "Best Value" basis, not necessarily a "Low Bid" basis. Therefore, so that the HHA can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted following. Each category must be separated by numbered index dividers (which number extends so that each tab can be located without opening the proposal) and labeled with the corresponding tab reference also noted below. None of the proposed services may conflict with any requirement the HHA has published herein or has issued by addendum.

**Tab 1, Form of Proposal:** This Form is attached to this RFP document. This 1-page Form must be completed and executed where provided thereon and submitted under this tab as a part of the proposal submittal.

**Tab 2, Form HUD-5369-A, Representations, Certifications, and Other Statements of Bidders:** This Form is attached to this RFP document. This form must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.

**Tab 3, Vendor Information Form:** The Vendor Information Form is attached to this RFP document. This form must be fully completed, executed, and submitted under this tab as a part of the proposal submittal. NOTE: Insurance policies to be supplied upon request only.

**Tab 4, Proposed Services:** The successful responder must demonstrate their ability to perform these services in an efficient, timely, and independent manner. The description of the responder's proposal and experience shall indicate possession of a broad and practical knowledge of HUD rules, regulations and requirements, and federal law and applicable procedure pertaining to public housing grants.

**Tab 5, Managerial Capacity/Financial Viability:** This is the section reserved for demonstrating the qualifications and technical ability of the staff member(s) who will conduct the services. Please include a company biography. The respondent must submit, under this tab, a concise description of its managerial and financial capacity to deliver the proposed services, including brief professional resumes for the principles, as well as those individuals assigned to the engagement team.

**Tab 6, Client Information:** The Respondent shall submit a listing of at least 3 former or current clients for whom the Respondent has, within the preceding 24 months, performed similar or like services to those being proposed herein. The list shall, at a minimum, include:

- The name of the Firm;
- The client's contact name;
- The client's telephone number;
- A brief description and scope of the service(s) provided.

**Tab 7, Equal Employment Opportunity:** The Respondent shall submit under this tab a copy of its Equal Opportunity Employment Policy, and any documentation it believes substantiates practice and history of employing minorities and/or women in professional positions. This tab should also include any

certification of Minority Business Enterprise (MBE) and/or Woman Business Enterprise (WBE) or a certificate of sole proprietorship.

**Tab 8, Section 3 Documentation:** For any Respondent claiming a Section 3 Preference, they shall, under this tab, include the fully completed and executed (inclusive of the form being notarized) Section 3 Certification Form (attached to this RFP document).

**Tab 9, Fee Proposal:** Shall be submitted on the Cost Proposal form provided, indicating hourly fees for each identified staff person, as well as estimated hours required to perform the scope of work. Also indicate any travel/lodging fees, reimbursable fees, and other associated costs and fees.

**Tab 10, Other Information (Optional Item):** The Respondent may include hereunder any other general information that the Respondent believes is appropriate to assist the HHA in its evaluation. Include Subcontractor/Joint Venture Information under this tab.

If no pertinent information is to be placed under any of the tabs (especially the "Optional" tabs), please place there under a statement such as "THIS TAB LEFT INTENTIONALLY BLANK."

## **PROPOSAL EVALUATION**

**Initial Evaluation:** Each proposal received will first be evaluated for responsiveness (i.e., meets the minimum of the requirements). The Chair of the HHA Board shall select a minimum of a three-person panel comprised of the HHA President, the Chair of the HHA Board, and HHA Board members and/or HHA staff to evaluate each of the proposals submitted in response to this RFP.

**Evaluation Period:** Within no more than 10 business days, the panel will complete its evaluation. Additional time may be granted in cases where a large number of responses are received and/or interviews are to be conducted.

**Evaluation Summary:** The Contract Manager will complete a summary of responses from the evaluators. At his/her discretion, the Chair of the HHA Board may call for a special meeting of the Board to discuss the proposals, the evaluations, or to short list some firms for further consideration. Final recommendation of the Firm presenting the best value of the short-listed firms may be accomplished by, but not limited to, vote of the panel.

**Proposal Scoring:** The Evaluation Committee will review the Proposals in accordance with the following evaluation criteria:

- 1. Technical Competence and Methods **0 to 30 Points****  
Verifiable experience within the service area and degree of housing and/or public entity representation experience, references, integrity, compliance with public policy, record of past performance, and financial and technical resources.
  
- 2. Narrative Response to RFP **0 to 25 Points****  
The narrative should address the scope of service and describe the approach or management structure/style that will be taken, and the staff that will be assigned to the tasks.
  
- 3. Proposed Contract Price (e.g. Fee Schedule) **0 to 25 Points****  
The Respondent will be evaluated based on the proposal fee schedule as it pertains to services as delineated by this RFP. Based upon this proposed fee structure, an assessment will be made concerning the reasonableness of the fee proposal for accomplishing the proposed scope of work.
  
- 4. Involvement of MBE, WBE Enterprises and **0 to 15 Points****
  - a. Certified Section 3 business, plan, training education fund or dedicated staff 0 - 5 Points
  - b. MBE/WBE participation/partnership/mentorship (attach copy of appropriate certification) 0 - 10 Points
  
- 5. Community Service **0 to 5 Points****  
The Respondent will be evaluated based on the Firm's involvement in community service and volunteering activities in the City of Harrisburg.

**TOTAL POINTS**

**100 Points**

## Award of Contract

Upon final completion of the proposal evaluation process by a properly selected Evaluation Committee, a written award recommendation shall be presented to the HHA Board of Commissioners. After due deliberation, and with input from HHA staff and the HHA President, the HHA Board shall award the contract at a public board meeting. Upon approval of award by the Board, the top-rated Respondent and all other respondents shall receive an announcement of award or the final determination. Contract price negotiations may, at the HHA's option, commence prior to or after the Board approval. In the event the Board does not approve the panel's recommendation, the HHA reserves the right to re-evaluate, rebid, or cancel the solicitation.

**Contract Conditions:** The following provisions are considered mandatory conditions of any contract award made by HHA pursuant to this RFP:

- **Contract Form:** Contracts shall only be executed on the sample Professional Services Contract (attached), and the respondent's submission of a proposal demonstrates agreement to this stipulation. The HHA will not execute a contract on the successful Respondent's form; however, the Agency will consider any contract clauses that the Respondent wishes to include therein. The failure of the HHA to include such clauses does not give the successful Respondent the right to refuse to execute the HUD contract form.
- **General Conditions:** HUD Form 5370-C, Section I is made part of this contract.
- **Assignment of Personnel:** The HHA shall retain the right to demand and receive a change in personnel assigned to the work if the HHA believes that such change is in the best interest of the HHA and the completion of the contracted work.
- **Unauthorized Sub-Contracting Prohibited:** The successful Respondent shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the Contract Officer. Any purported assignment of interest or delegation of duty, without the prior written consent of the Contract Officer shall be void and may result in the cancellation of the contract with the HHA, or may result in the full or partial forfeiture of funds paid to the successful Respondent as a result of the proposed contract, as determined by the Contract Officer.
- **Contract Period:** The HHA will award a three-year contract to the successful Respondent to perform General Counsel, General Litigation, limited Real Estate Law and Insurance Law Services, with the possibility of 2 one-year extensions.
- **Billing Invoices:** – To receive any payment due the successful Respondent, they shall submit to HHA upon completion of task, detailing the service provided and the dates of service. All approved invoices will be paid by HHA on a net 30-day basis and shall be formatted as follows (at a minimum):
  - Company name, address, telephone number;
  - Invoice number, HHA contract, and work order number (if applicable);
  - Detail of services being invoiced;
  - MBE/WBE & Section 3 utilization reports shall accompany all invoices (forms to be provided by HHA). Note: If the composition of the engagement team does not waiver, only one such submission will be required.
- **Work made for hire:** All work performed pursuant to this agreement specifically including all deliverables developed or prepared for HHA is the exclusive property of HHA. All right, title and interest in and to said property shall vest in the HHA and shall be deemed to be a work made for hire and made in the course of the services rendered pursuant to this agreement.

- **Work Paper Retention:** Both parties hereby guarantee retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

## I. LICENSING AND INSURANCE

Prior to award (**but not as part of the submission of the proposal**), the *successful Respondent* will be required to produce the following: An original certificate evidencing the Respondent's current industrial (workers compensation) insurance carrier and coverage amount.

- An original certificate, naming the HHA as an additional insured, showing the entity's general liability insurance coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000), with fire damage of \$50,000, with a deductible of not greater than \$1,000.
- An original certificate showing the Respondent's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000, with a deductible of not greater than \$1,000).
- An original certificate showing the Respondent's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical payment of \$5,000.
- A copy of the Respondent's Harrisburg Mercantile License allowing that entity to provide services within the City of Harrisburg. Info available at:
  - W-9 form.

Info available at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

The aforementioned requested information shall be entered where requested on the Profile of Firm Form under Tab 3 (**DO NOT ATTACH COPIES WITHIN THE PROPOSAL SUBMITTAL**--we will acquire the necessary certificates from the successful Respondent prior to contract execution).

### Invoicing and Payments

Contractor shall submit detailed billing to HHA within 30 days of job completion.

To receive any payment due, submit invoices of completed work to the headquarters address of HHA, 351 Chestnut Street, Harrisburg, PA 17101-2785. ACH payment is also available.

The Harrisburg Housing Authority is tax exempt. A tax exemption certificate will be furnished upon request.

Payment terms for approved invoices are on a net/30-day basis, and shall be formatted as follows:

- Company name, address, and telephone number;
- Invoice number, HHA purchase order, contract number, and task order number;
- Contractors must submit MBE/WBE/Section 3 utilization reports with invoicing.
  - If invoice frequency is greater than monthly, one submission per month is required.
  - If the composition of the work force does not waiver, one submission annually is required.



- If applicable, attach the completed Request For Service (RFS) form, with approval/signature by HHA staff of satisfactory completion. This is the form initiated by HHA requesting the contractor's services.

**FAILURE TO PROVIDE THIS INFORMATION IN ACCORD WITH THE FORMATTING  
REQUIREMENTS MAY DELAY THE PROCESSING OF INVOICES.**

## Form of Proposal

(This Form must be fully completed and placed under Tab #1 of the proposal submittal)

Instructions: The items listed below must be completed and included in the Proposal unless otherwise specifically noted. Please complete this form by marking X, where the referenced information has been included.

X = ITEM INCLUDED	SUBMITTAL ITEMS (One original and five hard copies of each Proposal)
_____	Tab 1 Form of Proposal
_____	Tab 2 Form HUD-5369-A and HUD 50071
_____	Tab 3 Vendor Information Form
_____	Tab 4 Proposed Services
_____	Tab 5 Managerial Capacity/Financial Viability
_____	Tab 6 Client Information
_____	Tab 7 Equal Employment Opportunity Statements
_____	Tab 8 Section 3 Documentation (Optional)
_____	Tab 9 Fee Proposal
_____	Tab 10 Other Information (Optional)

### Proposer's Statement

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this submittal, they are verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if the HHA discovers that any information entered herein is false, that shall entitle the HHA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HHA. Pursuant to all RFP Documents, the Form of Proposal, and all attachments, the undersigned proposes to supply the HHA with the services described herein for the fees as agreed by the HHA and proposer.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Company and Address

## Vendor Information Form

1) Prime \_\_\_\_ Sub-contractor \_\_\_\_ (This form must be completed by and for each).

2) Name of Firm: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

3) Street Address, City, State, Zip: \_\_\_\_\_

\_\_\_\_\_

4) E-mail Address: \_\_\_\_\_

*E-mail is our preferred method of contact; please correspond by same.*

5) Identify Principals/Partners in Firm

Name	Title	% of Ownership

6) Identify the individual(s) who will act as project manager, along with other supervisory personnel on the engagement team working the HHA contract:

Name	Title

7) Diversity Statement: Check all of the following that apply to the ownership of your firm, entering the percentage (%) of ownership of each:

Caucasian American (Male) \_\_\_\_\_%     
  Public-Held Corporation \_\_\_\_\_%     
  Government Agency \_\_\_\_\_%     
  Non-Profit Organization \_\_\_\_\_%

8) Minority- (MBE) or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following):

African American \_\_\_\_\_%     
  Native American \_\_\_\_\_%     
  Hispanic American \_\_\_\_\_%     
  Asian/Pacific American \_\_\_\_\_%     
  Hasidic Jew \_\_\_\_\_%

Asian/Indian American \_\_\_\_\_%     
  Woman-Owned (MBE) \_\_\_\_\_%     
  Woman-Owned (Caucasian) \_\_\_\_\_%     
  Disabled Veteran \_\_\_\_\_%     
  Other (Specify): \_\_\_\_\_%

WBE/MBE/DBE Certification Number: \_\_\_\_\_

Certified by (Agency): \_\_\_\_\_

(NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED; ENTER IF AVAILABLE)

9) Are you a Section 3 Business Concern: \_\_\_\_\_

*For clarification of a Section 3 Business Concern, please refer to the HHA Website listed below.*

10) Federal Tax ID Number: \_\_\_\_\_

11) Pennsylvania Business License Number: \_\_\_\_\_

12) State of \_\_\_\_\_ License Type and Number: \_\_\_\_\_

13) Worker's Compensation Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

14) General Liability Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

15) Professional Liability Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

16) Debarred Statement: Has this firm, or any principal(s), ever been debarred from providing any services by the Federal Government, any state government, or any local government agency within or out the State of Pennsylvania? Yes  No

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

17) If your firm currently holds any State or Federal Contracts, please list all contract #s. (i.e. CoStars, DGS Contracts, GSA Schedule 70 or 84, US Communities, WSCA, etc)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18) Please provide a list of services your firm provides.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19) Would your company be interested in receiving Direct Deposit Payment from HHA? Yes  No

20) Verification Statement: The undersigned proposer hereby states that by completing and submitting this form, he/she verifies that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HHA discovers any information entered herein is false, that shall entitle the HHA to not consider nor make award or to cancel any award with the undersigned party.

\_\_\_\_\_  
Signature Date Printed Name Company

**Please provide Section 3 Self Certification forms, licenses, etc.**

**This form along with HHA Policies are available at [www.harrisburghousing.org](http://www.harrisburghousing.org).**

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

**Representations, Certifications,  
and Other Statements of Bidders**  
**Public and Indian Housing Programs**

# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

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### 1. Certificate of Independent Price Determination

#### (a) The bidder certifies that--

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

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

#### (b) Each signature on the bid is considered to be a certification by the signatory that the signatory--

(1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

\_\_\_\_\_ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

[ ] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [ ] is, [ ] is not included with the bid.

### 2. Contingent Fee Representation and Agreement

#### (a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

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

(1) [ ] has, [ ] has not employed or retained any person or company to solicit or obtain this contract; and

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

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

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

### 3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

#### 4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
- (b) Impair the bidder's objectivity in performing the contract work.

[ ] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

#### 5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

#### 6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

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

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

(a) [ ] is, [ ] is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) [ ] is, [ ] is not a women-owned business enterprise. "Women-owned business enterprise," as used in this provision, means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) [ ] is, [ ] is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- [ ] Black Americans
- [ ] Asian Pacific Americans
- [ ] Hispanic Americans
- [ ] Asian Indian Americans
- [ ] Native Americans
- [ ] Hasidic Jewish Americans

#### 8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [ ] is, [ ] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [ ] is, [ ] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

**9. Certification of Eligibility Under the Davis-Bacon Act** (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**10. Certification of Nonsegregated Facilities** (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

- (1) Obtain identical certifications from the proposed subcontractors;
- (2) Retain the certifications in its files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**Note:** The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

**11. Clean Air and Water Certification** (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [ ] is, [ ] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

**12. Previous Participation Certificate** (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" [ ] is, [ ] is not included with the bid.

**13. Bidder's Signature**

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

\_\_\_\_\_  
(Signature and Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Company Address)



# Certification of Payments to Influence Federal Transactions

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

Public reporting burden for this information collection is estimated to average 30 minutes. This includes the time for collecting, reviewing, and reporting data. The information requested is required to obtain a benefit. This form is used to ensure federal funds are not used to influence members of Congress. There are no assurances of confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Applicant Name

Program/Activity Receiving Federal Grant Funding

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

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

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

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

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

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

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

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

## 6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

#### **7. Contract Award**

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

(b) The HA may

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

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

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

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

#### **8. Service of Protest**

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

#### **9. Offer Submission**

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

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

[Describe bid or proposal preparation instructions here:]

# 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. 11/30/2023)

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$150,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

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

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

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

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

#### 3. Termination for Convenience and Default

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

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

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

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

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

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

#### 6. Energy Efficiency

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

#### 7. Disputes

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

#### 8. Contract Termination; Debarment

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

#### 9. Assignment of Contract

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

#### 10. Certificate and Release

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

#### 11. Organizational Conflicts of Interest

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

#### 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

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

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

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

### 15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

## 16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

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

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

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

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

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

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

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

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

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

## 17. Equal Opportunity for Workers with Disabilities

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

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

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

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

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



The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

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

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

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

## 18. Dissemination or Disclosure of Information

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

## 19. Contractor's Status

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

## 20. Other Contractors

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

## 21. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 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) 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
- (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



**PROFESSIONAL SERVICES CONTRACT**

**BETWEEN**

**HARRISBURG HOUSING AUTHORITY**

**AND**

---

**BY:**

HARRISBURG HOUSING AUTHORITY  
351 CHESTNUT STREET  
HARRISBURG PA 17101-2785  
Telephone: 717.232.6781

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### Attachments

- Attachment A - Scope of Services
- Compilation of Costs Worksheet
- Fees & Billing Proposal
- Letter of Authorization to Represent Agency
- Non-Disclosure Agreement
- Signatures Agency – Legal & President

**HARRISBURG HOUSING AUTHORITY**  
**PROFESSIONAL SERVICES CONTRACT**

THIS CONTRACT, entered into as of this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2012, between the Harrisburg Housing Authority referred to as the "AGENCY" and \_\_\_\_\_ located at \_\_\_\_\_ and hereinafter referred to as "CONTRACTOR".

**WITNESSETH:**

WHEREAS, the AGENCY desires to engage the CONTRACTOR to render certain professional services, described as the deliverance of \_\_\_\_\_ Services as set forth in Attachment A, Scope of Services, which is incorporated by reference herein;

WHEREAS, the AGENCY in engaging the CONTRACTOR as named herein desires to provide for the efficient and orderly performance of the designated Services;

WHEREAS, the CONTRACTOR represents that it possesses the necessary skills to perform the Services as herein stated, in a manner which is responsive to the AGENCY needs in all respects;

WHEREAS, the AGENCY, through its approval process and for the benefit of the public, has selected the CONTRACTOR who is qualified to carry out the objectives of this contract as described herein;

WHEREAS, the objectives of this Contract is for CONTRACTOR to provide \_\_\_\_\_ services for the AGENCY as set forth in Attachment A, Scope of Services, and in response to AGENCY RFP, IFB or RFQ; and

WHEREAS, other related services may be provided in support of the Services under this Contract.

NOW THEREFORE, in consideration of the premises, the mutual undertakings and benefits to accrue to the parties and to the public, the parties hereto agree as follows:

## **1. ENGAGEMENT OF THE CONTRACTOR AND CONTRACTORS RESPONSIBILITIES**

1.01 The AGENCY hereby engages the CONTRACTOR and the CONTRACTOR hereby agrees to faithfully and diligently perform the Services hereinafter set forth in Attachment A, Scope of Work and Response to the RFP, IFB or RFQ, in accordance with the terms and conditions contained in this Contract.

1.02 The CONTRACTOR shall perform in a satisfactory, expeditious, and proper manner, as shall be determined within the sole and reasonable discretion of the AGENCY, the Services as described in Attachment A. In the event that there shall be any dispute between the parties with regard to the extent, execution, character and progress of the Services to be performed or the quality of performance under this Contract, the interpretation and determination of the AGENCY shall govern.

The CONTRACTOR shall confer as necessary and cooperate with the AGENCY in order that the work may proceed in an efficient and satisfactory manner. The Services are deemed to include performance of \_\_\_\_\_.

Time limits established by the schedule and approved by the AGENCY shall not, except for reasonable cause, be exceeded by the CONTRACTOR or the AGENCY unless otherwise mutually agreed in writing and set forth in an Amendment and approved by the Authorities having jurisdiction.

1.04 The CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all Services furnished by it or its associates under this Contract. The CONTRACTOR shall, without additional compensation, correct or revise without delay any errors or deficiencies in its Services.

## **2. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

2.01 To induce the AGENCY to enter into the Contract, the CONTRACTOR represents and warrants as follows:

(a) The CONTRACTOR is incorporated or organized as a corporation, a limited liability company, a limited liability partnership or a partnership; is authorized to do business under the laws of the City of Harrisburg, Dauphin County, and State of Pennsylvania, and is duly qualified to perform the Services as set forth in the Contract. The CONTRACTOR'S address and chief place of business is that as set forth above on page one (1) of this Contract.

(b) The execution, delivery, and performance thereof are within the CONTRACTOR'S authorized powers and are not in contravention of law or the terms of the CONTRACTOR'S incorporation or organizational charter and/or bylaws.

### **3. UNCLASSIFIED SERVICE/INDEPENDENT CONTRACTOR**

3.01 The relationship of the CONTRACTOR to the AGENCY is to be that of an independent CONTRACTOR and no liability or benefits, such as retirement benefits or liabilities, pension rights or liabilities, insurance rights or liabilities, holiday pay, sick pay, vacation pay, personal injury or property insurance rights or liabilities arising out of a contract for hire or employer-employee relationship either express or implied shall arise or accrue to either party as the result of this agreement and undertaking. The CONTRACTOR shall, under no circumstances, represent himself/herself as an employee of the AGENCY or City of Harrisburg.

### **4. TERM OF CONTRACT**

4.01 This Contract is effective for a period of \_\_\_\_\_ (\_\_\_\_) months, commencing on the date the Contract is completely executed, unless properly amended or terminated as provided herein. The Contract may be renewed by mutual written agreement upon its expiration for a period of \_\_\_\_\_(\_\_\_\_), \_\_\_\_\_renewal periods.

4.02 Prior to the execution of this Contract, the CONTRACTOR shall have no authority to begin work under this Contract. The AGENCY'S Contracting Officer and/or designee shall not authorize any payments to the CONTRACTOR prior to such award, nor shall the AGENCY incur any liability to reimburse the CONTRACTOR regarding any expenditure for the purchase of materials or the payment for Services prior to commencement of this Contract. The Contract shall not become effective until the Contract has been approved and signed by the authorities having jurisdiction over this Contract.

4.03 Upon receipt of a Notice to Proceed or Task Order, the CONTRACTOR shall provide all related services necessary for the accomplishment of the tasks delineated in the Scope of Services contained in Attachment A, Response to RFP, IFB or RFQ.

### **5. PERSONNEL AND CONTRACT ADMINISTRATION**

5.01 The CONTRACTOR represents that it has or shall, at its own expense, obtain all personnel required to perform the Services. All of the Services required hereunder shall be performed by the CONTRACTOR or under its supervision.

5.02 To ensure proper performance of the Services and a quality Work Product, the CONTRACTOR warrants that all personnel assigned to perform the services or other consultants or SUBCONTRACTORS engaged by the CONTRACTOR to perform the services, are fully qualified and authorized to perform such services under the state and local laws and governing professional association rules, if any, where such employee, SUBCONTRACTOR or consultant is employed.

5.03 The CONTRACTOR hereby waives any claim against the AGENCY and agrees not to hold the AGENCY liable for personal injury or property damages incurred by it, its employees or

associates under this Contract, unless it is found in a court of competent jurisdiction to be directly attributable to the gross negligence or malicious intentional conduct of an employee of the AGENCY acting within the scope of his employment. The CONTRACTOR further agrees to hold the AGENCY harmless from any such claim by its employees or associates.

5.04 The Contracting Officer shall manage the project unless otherwise designated in the Scope of Services.

5.05 No substitutes of any of the key personnel shall be made by the CONTRACTOR without the prior written consent of the AGENCY. Said consent shall not be unreasonably withheld.

## **6. COMPENSATION**

The AGENCY shall compensate the CONTRACTOR for services as specified in Attachment A, Scope of Work, which is attached hereto and incorporated by reference herein as part of this Contract. AGENCY shall pay CONTRACTOR at the rate described in CONTRACTOR'S RFP, IFB or RFQ response, which is included by reference and attachment. Compensation shall not exceed \$ \_\_\_\_\_ ( \_\_\_\_\_ ) during the \_\_\_\_\_-year term, should optional years be renewed.

6.02 The intent of this Contract is for the AGENCY and the CONTRACTOR to enter into a firm fixed fee Contract with no provision for reimbursable expenses except as provided in other provisions herein.

6.03 Additional Services shall be provided for as set forth in Article 16 (AMENDMENTS) where applicable. Additional Services are those Services that are in addition to the Scope of Services contained in Attachment A and which require the CONTRACTOR to incur verifiable additional costs, which shall be reasonable.

Within ten (10) days after receipt of the AGENCY'S request for Additional Services, the CONTRACTOR shall be given a cost quotation and the terms and conditions, if any, for the performance of the Additional Services. In the event the AGENCY deems the CONTRACTOR'S cost quotation to be too high or its terms to be unacceptable, the AGENCY shall have the option to have the Additional Services performed by another organization of its choice.

6.04 When Contract payments are contingent upon receipt of grant funds, the AGENCY reserves the right to delay payments without penalty or interest until receipt of adequate funds from the AGENCY'S Government-Grantor.

6.05 The CONTRACTOR shall maintain full and complete books, ledgers, journals, accounts, documents, and records reflecting all its operations pursuant to this Contract. The records shall be kept in accordance with generally accepted accounting practices and principles for a minimum of three (3) years from the Contract completion date. The AGENCY and any Government-Grantor AGENCY providing funding under this Contract and/or the project to



which this Contract is related, shall have the right at any time and from time to time, without notice, to examine and audit all records and other supporting data as the AGENCY or other AGENCY Government-Grantor(s) deem necessary to receive from the CONTRACTOR or any consultants, SUBCONTRACTORS or agents rendering services under this Contract, whether direct or indirect. The CONTRACTOR shall make all records available for examination during normal business hours at its \_\_\_\_\_ office(s). The CONTRACTOR shall make copies of all records on request.

The CONTRACTOR agrees to include the covenants contained in this section in any Contract it has with any SUBCONTRACTOR, consultant or agent whose service shall be charged directly or indirectly to the AGENCY on this project.

## **7. METHOD OF PAYMENT**

7.01 Payment for the proper performance and AGENCY approval of the Services, and Additional Services or Reimbursable Expenses, if included in Scope of Services, shall be commensurate with the scheduled progress of the work as evidenced by the timely receipt of the AGENCY approved Reports and services and shall be contingent upon receipt by the AGENCY and invoice for payment. The Invoice shall certify the total cost of the Services rendered to the project to date, the total cost of Reimbursable Expenses, if allowed, rendered to the project to date, the cost of Additional Services rendered to the project to date for that billing period. The following shall be itemized:

- (a) each expenditure and/or charge;
- (b) the services rendered pursuant thereto; and
- (c) the date such services were rendered

The appropriate receipts shall be attached. The invoices must be received by the AGENCY not more than thirty (30) days after the close of each calendar month, and signed by an authorized officer or designee of the CONTRACTOR. The invoice shall be paid on a net (30) days basis following receipt and approval of the invoice.

Along with the invoicing requirements, be advised utilization reports (affirmative action, i.e., WBE/MBE) as well as the Section 3 utilization report, (identifying training & employment opportunities afforded low-income individuals), are to be completed and submitted along with your initial invoicing. Unless the complement of staff working this contract changes, those reports will remain representative of the contract as status quo, and need only be submitted one time. Failure to provide this information may delay the processing of invoices.

Invoices for payment should be mailed to:

Contracting Officer  
Harrisburg Housing Authority  
351 Chestnut Street  
Harrisburg PA 17101-2785

The Harrisburg Housing Authority is tax exempt. A tax exemption certificate will be furnished upon request.

7.02 Invoices and Reports shall be directed to the attention of the Contracting Officer. Checks as payment for Services rendered hereunder shall be drawn to the order of the CONTRACTOR and mailed to the CONTRACTOR at the address stated in Article 18.

The making of payments, including partial payments by the AGENCY to the CONTRACTOR in the manner aforesaid, shall vest in the AGENCY title to, and the right to take possession of all Work Products produced by the CONTRACTOR up to the time of such payments. The AGENCY shall have the right to use the same for public purposes or make any desirable alternatives thereto without other or further compensation to the CONTRACTOR or to any other person.

## **8. INDEMNITY AND DAMAGES**

8.01 The CONTRACTOR agrees to save harmless the AGENCY against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges, losses and expenses, including without limitation, fees and expenses of attorneys, expert witnesses and other consultants (at the prevailing market rate for such person or firms) which may be imposed upon, incurred by or asserted against the AGENCY by reason of any of the following occurring during the term of this Contract:

- (a) Any negligent or tortious act, error or omission of the CONTRACTOR, or any of its Associates for whose acts any of them might be liable, regardless of whether or not it is caused in part by a person indemnified hereunder.
- (b) Any failure by the CONTRACTOR, or any of its Associates to perform its obligations, either implied or expressed, under this Contract.

The CONTRACTOR also agrees to hold the AGENCY harmless from any and all injury to the person or damage to the property of, or any loss or expense incurred by an employee of the AGENCY which arises out of or pursuant to the CONTRACTOR'S performance or that of its Associates under this Contract.

8.02 The CONTRACTOR undertakes and assumes all risk of dangerous conditions, if any, in and about any AGENCY premises and agrees to make an examination of all places where said Services are to be performed in order to determine whether such places are safe for the performance of the Services. The CONTRACTOR also agrees to waive and release any claim or liability against the AGENCY for personal injuries or property damage while performing under this Contract on premises which are not owned by the AGENCY.

8.03 In the event any action or proceeding shall be brought against the AGENCY by reason of any claim covered hereunder, the CONTRACTOR, upon notice from the AGENCY shall at its sole cost and expense, resist and defend the same with counsel of the CONTRACTOR'S choice, if the

choice is acceptable to the AGENCY.

8.04 The CONTRACTOR agrees that it is its responsibility and not the responsibility of the AGENCY to safeguard the property and materials that it or any of its Associates use or have in their possession while performing under this Contract. Further, the CONTRACTOR agrees to hold the AGENCY harmless for any loss of such property and materials used by any such persons pursuant to the CONTRACTOR'S performance under this Contract or which is in their possession.

8.05 The indemnification obligation under this article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by the CONTRACTOR under Worker's Compensation Acts or other employee benefit acts. In addition, the CONTRACTOR agrees to hold the AGENCY harmless from the payment of any deductible on any insurance policy.

8.06 The CONTRACTOR agrees that this Article shall apply to all matters described herein which occurs or arises between the CONTRACTOR or its Associates and the AGENCY.

8.07 For the purpose of the hold harmless and indemnity provision contained in the Contract, the term AGENCY shall be deemed to include the City of Harrisburg, Dauphin County, the Harrisburg Housing Authority, and all other associated, affiliated, allied or subsidiary entities or commission, their officers, agents, representatives and employees now existing or hereafter created.

## 9. INSURANCE

9.01 The CONTRACTOR shall maintain at its expense during the term of this Contract the following insurance:

Worker's Compensation & Disability	Statutory Requirements
Employers Liability	\$1,000,000.00 each accident
Bodily Injury by Accident	\$1,000,000.00 policy limit
Bodily Injury by Disease	\$1,000,000.00 each employee
Commercial General Liability (Occurrence Basis) Bodily Injury, personal injury, property damage, contractual liability, products/completed operations, errors & omissions.	
General Aggregate (other than Products/Completed Operations)	\$1,000,000.00
Personal and Advertising Injury Limit	\$500,000.00
Each Occurrence Limit	\$1,000,000.00
Fire Damage (any one fire)	\$50,000.00
Medical expense limit (any one person)	\$1,000,000.00
Bodily injury and property damage	\$1,000,000.00 (single limit)
Errors and Omissions	\$250,000.00 (each incident)

With the prior approval of the AGENCY, CONTRACTOR may substitute different limits of liability for those specified as long as the total amount of required protection is not reduced.

The Commercial General Liability Insurance policy shall name as an additional insured the Harrisburg Housing Authority, and shall state that the CONTRACTOR'S insurance is primary, with respect to the Harrisburg Housing Authority, as an additional insured, and not excess over any insurance already carried by the Harrisburg Housing Authority.

9.02 If, during the term of this Contract, changed conditions or other pertinent factors should, in the reasonable judgment of the AGENCY, render inadequate the insurance limits or types of coverage, the CONTRACTOR shall furnish or demand from its insurer such additional coverage

as may reasonably be required under the circumstances. All such insurance shall be affected at the CONTRACTOR'S expense under valid and enforceable policies, issued by insurers of recognized responsibility, which are well-rated by national rating organizations and are acceptable to the AGENCY.

9.03 All policies shall name the CONTRACTOR as the insured and shall be accompanied by a commitment from the insurer that such policies shall not be canceled, or reduced without at least thirty (30) days prior written notice to the AGENCY. A Certificate of Insurance evidencing such coverage shall be submitted to the Contracting Officer prior to the commencement of performance under this Contract and at least fifteen (15) days prior to the expiration dates of expiring policies. In the event that the policies lapse and not be renewed, the contract is subject to termination.

9.04 If any work is sublet in connection with this Contract, the CONTRACTOR shall require each SUBCONTRACTOR to effect and maintain the types and limits of insurance as requested by the AGENCY and shall require documentation of same, copies of which documentation shall be promptly furnished to the AGENCY.

## **10. DEFAULT AND TERMINATION**

10.01 The Contract shall remain in full force and effect until terminated according to Article 4 (TERM OF CONTRACT) unless otherwise terminated for cause or convenience according to Section 10.02 and 10.03 below.

10.02 The AGENCY reserves the right to terminate this Contract for cause. Cause usually results when there is an event of default.

(a) An event of default shall be construed as a material breach of this Contract and occurs when:

- (1) The CONTRACTOR fails to begin work in accordance with the terms of this Contract;
- (2) The CONTRACTOR in the judgment of the AGENCY is unnecessarily or unreasonably or willfully delaying the performance and completion of the Work Product or Services as set forth herein;
- (3) The CONTRACTOR abandons the work or Services to be undertaken;
- (4) The AGENCY is of the opinion that the work cannot be completed within the time herein provided or within such time as the completion has been extended, provided however that the impossibility of timely completion is in the AGENCY's judgment, attributable to conditions within the CONTRACTOR'S control;
- (5) The CONTRACTOR, without just cause, reduces its work force to a number which, if maintained would be insufficient, in the judgment of the AGENCY, to complete the Services or work in accordance with the terms of this Contract or

within a reasonable time in keeping with the needs of the AGENCY and fails to sufficiently increase such work force when directed to do so by the AGENCY;

(6) The CONTRACTOR assigns, transfers, conveys, or otherwise disposes of this Contract in whole or in part without prior approval of the AGENCY;

(7) Any AGENCY officer or employee acquires an interest directly or indirectly in this Contract;

(8) The CONTRACTOR violates any of the provisions of this Contract, or disregards applicable laws, ordinances, permits, licenses, instructions or orders dictated by the AGENCY;

(9) The CONTRACTOR, or any of its SUBCONTRACTOR'S, assignees or employees fail in the performance of any of the conditions, terms or agreements herein contained;

(10) The CONTRACTOR ceases to conduct business in the normal course by reason of insolvency, bankruptcy or any similar proceedings, whether voluntarily or involuntarily, filed under any present or future bankruptcy or other applicable law; or

(11) The CONTRACTOR admits in writing its inability to pay its debts generally as they become due.

(b) The AGENCY shall give the CONTRACTOR notice of its default status and ground(s) thereof before contract termination. Upon receiving such notice, and within five (5) working days, the CONTRACTOR shall be given an opportunity to explain why these defaults have occurred and how they can be corrected. The AGENCY may decide (but it is under no obligation to do so) allow the CONTRACTOR a specific number of calendar days, but usually not more than fifteen (15) days, to take such remedial measures or make satisfactory arrangements to remove or eliminate the ground(s) for declaring these default.

(c) If the AGENCY finds the CONTRACTOR'S explanation of this matter and/or the remedial steps to be taken unsatisfactory, it shall so state in writing to the CONTRACTOR, and also prepare a written report of the CONTRACTOR'S default status and include all supportive data.

Notice of Termination shall be sent to the CONTRACTOR at least fifteen (15) days prior to the effective date of termination, stating the ground(s) for termination and the date of termination.

If after Notice of Termination it is determined by the AGENCY for any reason that the CONTRACTOR was not in default under the provision of Subsection (a), the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to the termination for the convenience of the AGENCY.

(d) The CONTRACTOR shall be liable to the AGENCY for any damages it sustains by virtue of the CONTRACTOR'S breach including reasonable attorney's fees. The AGENCY

may withhold any payment(s) to the CONTRACTOR for the purpose of damages due to the AGENCY from the CONTRACTOR. It is expressly understood that the CONTRACTOR shall remain liable for any damages the AGENCY sustains in excess of any set off. If the Contract is so terminated, the AGENCY may take over the Services, and pursue the same to completion by Contract with another party.

Other remedies shall also be available to the AGENCY. The provisions outlined herein shall be in addition to any and all other legal or equitable remedies permissible.

10.03 The AGENCY may terminate this Contract in whole or in part for its convenience at any time, without incurring any further liability whatsoever, other than as stated in this Article. When the Contract is to be terminated for convenience, the AGENCY shall prepare a written notice establishing the fact that the Contract is to be terminated. A Notice of Termination shall be sent to the CONTRACTOR, specifying the effective date thereof at least fifteen (15) days prior to the effective date of such termination. If the Contract is so terminated, the AGENCY shall pay the CONTRACTOR only for the Services rendered; any expenses incurred prior to termination (if expenses are allowed pursuant to Section 7.02); bonafide termination settlement costs reasonably incurred by the CONTRACTOR as determined by the AGENCY relating to commitments (which had become firm prior to the termination) but only to the extent that the CONTRACTOR could not have mitigated same; and such other compensation which, in the judgment of the AGENCY, represents a fair value of the Services provided less the amount of any previous payments made, which payment the CONTRACTOR agrees shall constitute full and complete payment and upon acceptance constitutes an accord and satisfaction of any and all claims of whatsoever kind or nature under this Contract. Should the AGENCY or the AGENCY's designee undertake any part of the Services which are to be performed by the AGENCY or its designee, the CONTRACTOR shall not be entitled to any compensation for the services so performed. The parties expressly agree that no payments under this Article shall exceed the maximum sum payable provision in Article 6 (COMPENSATION).

10.04 After receipt of a Notice of Termination and except as otherwise directed by the AGENCY, the CONTRACTOR shall:

- (a) Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
- (b) Obligate no additional Contract funds for payroll costs and other costs beyond such date as the AGENCY shall specify, and place no further orders on subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under this Contract as if not terminated;
- (c) Terminate any and all orders and subcontracts to the extent that they relate to the portion of work so terminated;
- (d) As of the date the termination is effective, preserve all Contract records and submit to the AGENCY such records and reports as the AGENCY shall specify, and furnish to the AGENCY an inventory of all furnishings, equipment, and other property purchased for

the Contract, if any, and carry out such directives as the AGENCY may issue concerning the safeguarding or disposition of files and other property; and

(e) Submit within thirty (30) days a final report of receipts and expenditures of funds relating to this Contract and a list of all creditors, SUBCONTRACTORS, lessors, and/or other parties with which the CONTRACTOR has incurred financial obligations pursuant to this Contract.

## **11. ASSIGNMENT**

11.01 The CONTRACTOR shall not assign, transfer, convey, encumber, or otherwise dispose of any interest whatsoever in this Contract, indirectly or directly (whether by assignment or novation), without the prior written consent of the AGENCY. Said written consent shall define the terms of any agreed assignment.

## **12. SUBCONTRACTING**

12.01 None of the services covered by this Contract shall be subcontracted without the prior written approval of the AGENCY and any AGENCY Government-Grantor, if required. The AGENCY reserves the right to withhold approval of subcontracting such portions of the work or services, which the AGENCY may deem, is not in the AGENCY's best interest.

12.02 Each subcontract entered into shall provide that the provisions of this Contract shall apply to the SUBCONTRACTOR and his officers, agents and employees in all respects as if it and they were employees of the CONTRACTOR. The CONTRACTOR agrees to bind each SUBCONTRACTOR and each SUBCONTRACTOR shall agree to be bound by the terms of the Contract insofar as applicable to its work or Services.

12.03 The CONTRACTOR and the SUBCONTRACTOR, jointly and severally, agree that no approval by the AGENCY of any proposed SUBCONTRACTOR, nor any subcontract, nor anything in this Contract shall create or be deemed to create any rights in favor of the SUBCONTRACTOR against the AGENCY, nor shall it be deemed or construed to impose upon the AGENCY an obligation, liability or duty to a SUBCONTRACTOR, or to create any contractual relationship whatsoever between a SUBCONTRACTOR and the AGENCY.

12.04 The CONTRACTOR agrees to defend, indemnify and hold harmless the AGENCY from any claims initiated against the AGENCY pursuant to any subcontracts it enters into in performance of this Contract. The AGENCY's approval of any SUBCONTRACTOR shall not relieve the CONTRACTOR of any of its responsibilities, duties and liabilities hereunder. The CONTRACTOR shall be solely responsible to the AGENCY for the acts or defaults of its SUBCONTRACTOR and of each of SUBCONTRACTOR'S officers, agents, and employees, each of who will, for this purpose be deemed to be the agent or employee of the CONTRACTOR by nature of its subcontract.

12.05 Any SUBCONTRACTORS, outside associates, or consultants required by the CONTRACTOR in connection with the services covered by the Contract shall be limited to individuals or firms that were specifically identified in the AGENCY-approved CONTRACTOR'S final proposal.



12.06 The CONTRACTOR shall take all steps necessary to ensure that, whenever possible, subcontracts are awarded to minority firms and women's business enterprises.

### **13. CONFLICT OF INTEREST AND NON-COLLUSION/NON-IDENTITY/NON-INTEREST**

13.01 The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services under this Contract. The CONTRACTOR further covenants that in the performance of this Contract, no person having any such interest shall be employed.

The CONTRACTOR further covenants that no officer, agent or employee of the AGENCY and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Contract has any personal or financial interest, direct or indirect, in the Contract or in the proceeds thereof, via corporate entity, partnership or otherwise. An executed Certificate of Non Organizational Conflict of Interest shall be attached and incorporated by reference to this Contract.

13.02 The CONTRACTOR warrants that to the best of its information, knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest with AGENCY.

13.03 The CONTRACTOR agrees that, if after award of the Contract, it discovers an organizational conflict of interest with respect to this Contract, it shall make an immediate and full disclosure in writing to the AGENCY which shall include a description of the action which the CONTRACTOR has taken or intends to take to eliminate or neutralize the conflict. The AGENCY may terminate the Contract for convenience if it would be in the best interest of the AGENCY.

13.04 The CONTRACTOR also hereby warrants that it shall not and has not employed any person to solicit or secure this Contract upon any agreement or arrangement for payment of a commission, percentage, brokerage or contingent fee, other than bona fide employees working solely for the CONTRACTOR, directly or indirectly and that if this warranty is breached, the AGENCY may, at its option, terminate this Contract without penalty, liability or obligation or may, at its election, deduct from any amounts owed to the CONTRACTOR hereunder any amounts of such commission, percentage or contingent fee.

13.05 The CONTRACTOR covenants not to employ an employee of the AGENCY for a period of one (1) year after the date of termination of this Contract without AGENCY approval.

### **14. CONFIDENTIAL INFORMATION**

14.01 In order that the CONTRACTOR may effectively fulfill its covenants and obligations under this Contract, it may be necessary or desirable for the AGENCY to disclose confidential and proprietary information to the CONTRACTOR or its associates pertaining to the AGENCY's past,

present and future activities. The CONTRACTOR shall instruct its associates to regard all information gained by each such person as a result of the services to be performed hereunder, as information which is proprietary to the AGENCY and not to be disclosed to any organization or individual without the prior written consent of the AGENCY.

14.02 The CONTRACTOR agrees to take appropriate action with respect to its associates to ensure that the obligations of non-use and nondisclosure of confidential information of this Contract can be fully satisfied.

## **15. COMPLIANCE WITH LAWS**

15.01 The CONTRACTOR shall comply with, and shall require its associates to comply with, all (a) applicable Federal, state and local laws, ordinances, code(s), regulations and policies.

15.02 The CONTRACTOR shall hold the AGENCY harmless with respect to any damages arising from any violations of a Federal, state or local law, ordinance, code, regulation or policy by it or its associate(s). The CONTRACTOR shall commit no trespass on any public or private property in performing any of the Services encompassed by this Contract. The CONTRACTOR shall require, as part of any subcontract, that SUBCONTRACTORS comply with all such laws and regulations.

## **16. AMENDMENTS**

16.01 The AGENCY may consider it in its best interest to change, modify or extend a term, condition or covenant of this Contract or require the CONTRACTOR to perform additional services that are not contained within the Scope of Services as set forth in Attachment A.

16.02 Any such change, addition, deletion, extension or modification of Services may require that the compensation paid to the CONTRACTOR by the AGENCY be proportionately adjusted, (increase or decrease), to reflect such modification in the Scope of Services. If the AGENCY and CONTRACTOR mutually agree to any change or modification of this Contract, the modification shall be incorporated by written amendments to this Contract.

16.04 Amendments incorporated hereafter shall not invalidate this Contract nor relieve or release the CONTRACTOR unless expressly stated therein.

16.05 No Amendment to this Contract shall be effective and binding upon the parties unless it expressly makes reference to this Contract, is in writing and is signed and acknowledged by duly authorized representatives of both parties, executed by the Contracting Officer and is approved and executed by the President.

16.06 The parties herein acknowledge that the Scope of Services provided for herein is exclusive and exhaustive as provided in Attachment A, Scope of Services. CONTRACTOR herein acknowledges that it has no authority to expand the Scope of Services or to work beyond the contractual completion date without the expressed written consent of the AGENCY. If prior to receipt of written approval, CONTRACTOR works beyond scope of services or works beyond the completion/expiration date, CONTRACTOR does so at its own risk and will have no right to compensation in law and/or in equity.

## 17. FAIR EMPLOYMENT PRACTICES

17.01 In accordance with the U.S. Constitution and all federal legislation and regulations governing fair employment practices and equal employment opportunity including, but not limited to Title VI and the Civil Rights Act of 1964 (P.L. 88-352, 78 STAT. 252), and the U.S. Department of Justice Regulations (28 C.F.R. Part 42) issued pursuant to that Title; and in accordance with the Pennsylvania Constitution and all state laws and regulations governing fair employment practices and equal employment opportunity, including but not limited to the Pennsylvania Human Relations Act the CONTRACTOR agrees that it shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status or handicap that is unrelated to the individual's ability to perform the duties of a particular assignment or position. The CONTRACTOR hereby recognizes the right of the United States and the State of Pennsylvania to seek judicial enforcement of the foregoing covenant against discrimination, against itself or its SUBCONTRACTORS connected directly or indirectly with the performance of this Contract.

17.02 The CONTRACTOR agrees that it shall notify any SUBCONTRACTOR(S) of the obligations relative to nondiscrimination under this Contract when soliciting a subcontractor, and shall include the provision of this Article 17 in any subcontract, as well as provide the AGENCY a copy of any subcontract upon request.

17.03 Breach of the terms and conditions of this Article 17 shall constitute a material breach of this Contract and may be governed by the provisions of Article 10 (DEFAULT AND TERMINATION).

17.04 The CONTRACTOR shall post in conspicuous places available to employees and applicants for employment the Notices to be provided by the Contracting Officer that explains this clause. The CONTRACTOR shall, in all solicitations or advertisements of employment placed by or on behalf of the CONTRACTOR, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.

17.05 Where applicable, 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 worker's 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.

17.06 The CONTRACTOR shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

17.07 Where applicable, the CONTRACTOR shall furnish all information and reports required by Executive Order 11246, as amended any 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.

17.08 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, deemed null and void, 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 otherwise provided by law.

17.09 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 shall 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 HUD 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.

**18. NOTICES**

18.01 All notices, consents, approvals, requests and other communications (herein collectively called Notices) required or permitted under this Contract shall be given in writing and mailed by first-class mail and addressed as follows:

***If to the AGENCY:***

Harrisburg Housing Authority  
351 Chestnut Street  
Harrisburg PA 17101-2785

***Attention:***

Senghor A. Manns  
President/Agency Counsel

***If to the CONTRACTOR:***

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18.02 All Notices shall be deemed given on the day of mailing. Either party to this Contract may change its address for the receipt of Notices at any time by giving notice thereof to the other as herein provided. Any Notice given by a party hereunder must be signed by an authorized representative of such party.

18.03 Notwithstanding the requirement above as to the use of first-class mail, change of address notices, termination notices or other notices of a legal nature shall be sent by each party to this Contract by certified first-class mail, postage prepaid, return receipt requested.

## **19. WAIVER**

19.01 The AGENCY shall not be deemed to have waived any of its rights under this Contract unless such waiver is in writing and signed by the AGENCY.

19.02 No delay or omission on the part of the AGENCY in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one (1) occasion shall not be construed as a waiver of any right on any future occasion.

19.03 No failure by the AGENCY to insist upon the strict performance of any covenant, agreement, term or condition of this Contract or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term and condition.

## **20. MISCELLANEOUS**

20.01 If any provision of this Contract or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable it shall be stricken from this Contract and the remainder of this Contract or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby. Each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

20.02 This instrument, including all Attachments attached hereto, which are made a part of this Contract contains the entire agreement between the parties and all prior negotiations and agreements are merged herein. Neither the AGENCY nor the AGENCY's Agents have made any representation except those expressly set forth herein, and no rights or remedies are or shall be acquired by the CONTRACTOR by implication or otherwise unless expressly set forth herein. The CONTRACTOR hereby waives any defense it may have to the validity of the execution of this Contract.

20.03 In accordance with 42 U.S.C. 1437j, the CONTRACTOR shall pay not less than wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by the Secretary of HUD, to all professional, technical, executive, supervisory and administrative employees. The CONTRACTOR shall furnish to the AGENCY, with each statement submitted for services entered, certifications to such compliance.

20.04 In the event that the AGENCY has notice of underpayment of wages required to be paid under the requirement above, the AGENCY may withhold from the CONTRACTOR, out of the payment due, any or all amounts until the appropriate wages have been paid to such employees by the CONTRACTOR.

20.05 The CONTRACTOR shall be prohibited from placing a lien on the AGENCY'S property. This prohibition shall apply to all SUBCONTRACTORS.

## **21. CHOICE OF LAW AND FORUM SELECTION**

21.01 This agreement shall be governed and interpreted in accordance with the laws of the State of Pennsylvania and, for the purpose of resolving any issue pertaining to conflict of laws, this agreement shall be deemed to be fully and solely executed, performed and/or observed in the State of Pennsylvania. The parties hereto expressly consent to personal jurisdiction in the State of Pennsylvania in any action or proceeding brought in any court therein, state or federal, arising from alleging facts arising from the transaction contemplated herein.

## **22. COMPLIANCE WITH SECTION 3 OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGULATIONS**

22.01 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. 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. 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 worker's 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 the 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. 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 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. The CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled (1) after the CONTRACTOR is selected but 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 135. 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. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

SAMPLE

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SAMPLE



All of which is Agreed to by the undersigned on the dates indicated below

Harrisburg Housing Authority

351 Chestnut Street

Harrisburg Pennsylvania PA 17101

Company \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Senghor A. Manns

Title: President

Date: \_\_\_\_\_

By: \_\_\_\_\_

Copy:

Contract file