

# **Lucas Metropolitan Housing**

## **INVITATION FOR BIDS (IFB) IFB24-B006**

**Boiler Replacement at Flory Gardens & Vistula  
Manor**



**Issued: March 25, 2024**

**Due Date: April 23, 2024, at 3:00 PM ET**

**IFB Document  
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I acknowledge that all of the above attachments were received.

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_

## INTRODUCTION

The Lucas Metropolitan Housing Authority (“LMH” or “Agency”) is a public subdivision established in 1933 to provide federally subsidized housing and housing assistance to low-income families, within the City of Toledo and Lucas County. LMH is governed by a five-person board of commissioners and is subject to the requirements of Title 24 of the Code of Federal Regulations (“CFR”) and the Agency’s procurement policy. The President and Chief Executive Officer controls the daily operations.

LMH owns and/or manages approximately 2,760 Public Housing and administers 4,391 federal housing choice vouchers rental assistance vouchers. The Housing Choice Voucher Program has achieved high performer status. Its mission is “To create and maintain sustainable, affordable housing opportunities, provide pathways to a better quality of life, and empower vibrant communities.” LMH’s vision LMH is “To be a premier partner in creating communities of choice in the Greater Toledo Area”.

In keeping with its mandate to provide efficient and effective services, LMH is now soliciting proposals from qualified, licensed, and insured entities to provide the above-mentioned services. All proposals submitted in response to this solicitation must conform to all the requirements and specifications outlined within this document and any designated attachments in their entirety.

LMH is committed to a goal of thirty-five percent of all contract funds being awarded to Minority Business Enterprises (MBE). The firms submitting proposals are encouraged to include MBE participation to the maximum extent possible.

## INVITATIONS FOR BIDS

Lucas Metropolitan Housing is seeking bids from qualified contractors to furnish all labor, materials, and equipment for the following Project(s):

### Boiler Replacement at Flory Gardens & Vistula Manor

[Table 2]

<b>Issue Date:</b>	<b>March 25, 2024</b>
<b>Solicitation Number:</b>	<b>IFB24-B006</b>
<b>Pre-Bid Meeting - Walk thru of Buildings</b>	<b>424 Jackson on Wednesday, April 4, 2024, at 1:00 pm</b>
<b>Vistula Manor Flory Gardens</b>	<b>1:30pm 2:30pm</b>

<b>LMH CONTACT PERSON</b>	Gary McPheron, Procurement & Contract Manager 424 Jackson Street Toledo, OH 43604 419-259-9446 <a href="mailto:gmcpheron@lucasmha.org">gmcpheron@lucasmha.org</a> Scott Noonan, Procurement Associate 424 Jackson Street Toledo, OH 43604 419-259-9438 <a href="mailto:snoonan@lucasmha.org">snoonan@lucasmha.org</a>
<b>LMH Section 3 Coordinator</b>	John Keegan <a href="mailto:jkeegan@lucasmha.org">jkeegan@lucasmha.org</a> 419-259-9650
<b>HOW TO OBTAIN THE IFB DOCUMENTS ON THE EPROCUREMENT MARKETPLACE</b>	1. Access <a href="http://internationaleprocurement.com">internationaleprocurement.com</a> (no "www"). 2. Click on the "Login" button in the upper left side. 3. Follow the listed directions. 4. If you have any problems in accessing or registering on the eProcurement Marketplace, please call customer support at (866)526-9266.
<b>QUESTION SUBMITTAL DEADLINE</b>	Submit all questions to Scott Noonan at <a href="mailto:snoonan@lucasmha.org">snoonan@lucasmha.org</a> No later than 12:00pm on April 15, 2024.
<b>HOW TO FULLY RESPOND TO THIS IFB BY SUBMITTING A BID SUBMITTAL</b>	As instructed within Section 3.0 of the IFB document, submit 1 original of your "hard copy" bid in a sealed envelope to the LMH Administrative Office. An electronic copy is to be furnished upon request.
<b>BID SUBMITAL RETURN &amp; DEADLINE</b>	<b>April 23, 2024, at 3:00 PM ET</b> 424 Jackson Street, Toledo, OH 43604 The sealed "hard copy" bid documentation must be received in-hand and time-stamped by LMH Agency no later than 3:00 PM ET on this date.
<b>Bid Opening:</b>	<b>Bid Opening - April 23, 2024 at 3:05 PM ET at 424 Jackson Street, Toledo, OH 43604.</b>
<b>Notice of Intent to Submit</b>	It is suggested that interested companies submit a Notice of Intent to Submit a Bid to <a href="mailto:procurement@lucasmha.org">procurement@lucasmha.org</a> by 3:00 pm April 10, 2024, with the subject "Notice of Intent". By indicating your intent to submit a bid you will receive updates and clarifications to the IFB in addition to any addendum posted.

**1.0 THE AGENCY'S RESERVATION OF RIGHTS.** The Agency reserves the right to:

- 1.1 **Right to Reject, Waive, or Terminate the IFB.** Reject any or all bids, to waive any informality in the IFB process, or to terminate the IFB process at any time, if deemed by the Agency to be in its best interests.
- 1.2 **Right to Not Award.** Not to award a contract pursuant to this IFB.

- 1.3 **Right to Terminate.** Terminate a contract awarded pursuant to this IFB, at any time for its convenience upon 10 days' written notice to the successful bidder(s).
- 1.4 **Right to Determine Time and Location.** Determine the days, hours, and locations that the successful bidder(s) shall provide the services called for in this IFB.
- 1.5 **Right to Retain Bids.** Retain all bids submitted and not permit withdrawal for a period of 120 days subsequent to the deadline for receiving bids without the written consent of the Agency Contracting Officer (CO).
- 1.6 **Right to Negotiate.** Negotiate the fees proposed by the bidder entity. Although there will be alternates to price, LMH reserves the right to negotiate price, quantity, specifications, schedule, scope, etc.
- 1.7 **Right to Reject any Bid.** Reject and not consider any bid that does not meet the requirements of this IFB, including but not necessarily limited to incomplete bids and/or bids offering alternate or non-requested services.
- 1.8 **No Obligation to Compensate.** Have no obligation to compensate any bidder for any costs incurred in responding to this IFB.
- 1.9 **Right to Prohibit.** At any time during the IFB or contract process to prohibit any further participation by a bidder or reject any bid submitted that does not conform to any of the requirements detailed herein. By accessing the [internationaleprocurement.com](http://internationaleprocurement.com) eProcurement Marketplace (hereinafter, the "eProcurement Marketplace") and by downloading this document, or by receiving the documents from the Procurement Department, each prospective bidder is thereby agreeing to abide by all terms and conditions listed within this document and within the eProcurement Marketplace, and further agrees that he/she will inform the CO in writing within 5 days of the discovery of any item listed herein or of any item that is issued thereafter by the Agency that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve the Agency, but not the prospective bidder, of any responsibility pertaining to such issue.
- 1.10 **Right to Reject - Obtaining Competitive Solicitation Documents.** The eProcurement Marketplace is the only official and appropriate venue to obtain the competitive solicitation documents (and any other information pertaining to the competitive solicitation such as addenda), other than from LMH's Procurement Department. Accordingly, by submitting a response to this competitive solicitation the respondent thereby affirms that he/she obtained all information on the eProcurement Marketplace or from LMH directly. Any other group such as a bid depository that informs potential respondents of the availability of such competitive solicitations are hereby instructed to not distribute these documents to any such potential respondents, but to instruct the potential respondents to visit the eProcurement Marketplace to obtain the documents.

**2.0 SCOPE OF WORK/TECHNICAL SPECIFICATIONS.** The Agency is seeking bids from qualified, licensed, and insured entities for boiler replacement at Flory Gardens & Vistula Manor located in Toledo, Ohio.

### **2.1 General Conditions.**

- 2.1.1 **Scope of Services.** Contractor will provide all labor, materials, supervision, and coordination for replacement of boiler units, located at Flory Gardens and

Vistula Manor in Toledo, in accordance with the plans and specifications by MDA Engineering, Inc. The plans and specifications are in attachments Y and Z.

- 2.1.2 **Pre-bid meetings.** The contractor will meet with LMH representatives and or the architect at the sites that are to be repaired and renovated at the time that is designated. Although not required to bid, it is highly encouraged that the contractor view the sites and the surrounding areas for staging, logistics and for the extent of work needed.

## 2.2 Specific Work Requirements.

- 2.2.1 Contractor must follow the Occupational Safety and Health Administration (OSHA) guidelines, all state and local codes and regulations, and services shall be performed in accordance with any applicable governmental regulations.
- 2.2.2 Contractor must provide services in a manner that demonstrates sensitivity to the fact that LMH properties are primarily residential in nature and put the needs of the residents as the foremost priority.
- 2.2.3 The contractor's employees will be in uniform and vehicle that identifies the name of the company. The employee should have a name badge or other identification that clearly identifies that he/she is an employee of the company.
- 2.2.4 These projects will be **Davis Bacon** wage projects. Contractors will adhere to the provisions of the Davis Bacon Act (DBA). As such, Contractors shall be required to pay applicable worker's prevailing wages for work performed at all applicable locations to include all public housing development locations for work that involves construction related tasks, over \$2,000. The contractor will be required to submit weekly certified payrolls for all applicable workers (including all laborers and mechanics) during the contractual period. Please note that LMH will be using LCP tracker compliance software for Davis Bacon wage reporting on this project and expects the contractor and its subcontractors to also use it.
- 2.2.5 **Taxes:** All materials and labor that ultimately become a part of the completed structure or improvement that constitutes the Project will be exempt from State Sales Tax as provided in Section 5739.02, ORC, and State Use Tax as provided in Section 5741.01, ORC. The purchase, lease or rental of material, equipment, parts, or expendable items such as form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of State Sales Tax and State Use Tax.
- 2.2.6 **Project meetings.** The contractor will meet with LMH representatives and / or the architect on a regular basis or as determined necessary by Modernization and/or AMP Maintenance to review progress and provide necessary guidance. The contractor may also be required to meet with representatives from other trades that are working in conjunction within a specific project.

- 2.2.7 Both of these buildings are in Toledo, Lucas County, Ohio. All Electrical, Plumbing, HVAC and Abatement work must be performed by a licensed contractor.
- 2.2.8 **Project Labor Agreement**: For every project with a value over the previously established amount of \$100,000.00, the successful bidder must comply with the attached Project Labor Agreement incorporated herein as **Exhibit “M”**.

### 2.3 Contractor Responsibilities.

- 2.3.1 **Labor Rates All-inclusive.** Unless otherwise provided for herein, the unit fees bid shall be all-inclusive all other items, services and costs that the Contractor needs to complete the work, including but not limited to tools; equipment; insurance; licensing; employee costs, including benefits; etc. and the cost of materials.
- 2.3.2 **Additional classifications and wage rates.** If the DBA does not include a work classification(s) required for the execution of the contract work, the employer (contractor or subcontractor) will request an additional classification(s) and wage rates through the Agency. Generally, additional classifications and wage rates requests are not approved for apprentices, trainees, helpers, or welders.
- 2.3.4 **Labor Standards compliance monitoring.** Periodic monitoring is conducted to ensure all contractors and subcontractors are performing the contract work in accordance with the applicable labor standards provisions. The two key aspects of periodic monitoring include spot-check reviews of contractor and subcontractor records and on-site interviews with laborers and mechanics employed under the contract.
- 2.3.5 **Use of Subcontractors.** If a contractor is to use subcontractors, those individuals must be disclosed on the subcontractor listing submittal when submitting the bid. The listing includes a contract amount and Minority/Section 3 designation of the business. If the contractor /subcontractor hires an individual who is “self-employed”, but that individual has not taken steps to become a business owner and is not, therefore a “sole proprietor”, the contractor/subcontractor must pay the independent contractor the DBA wages for his/her work classification and complete the weekly certified payroll. If the subcontractor is a “sole proprietor”, the Contractor must maintain a record of the company Federal Tax ID number and a copy of the business license in the contracting file.
- 2.3.6 **Record Keeping.** Employers (contractors and subcontractors) engaged on work subject to DBA must make and maintain for no less than three years following the completion of the work records containing information demonstrating compliance with the wages applicable to the work. These records at a minimum contain for each laborer or mechanic employed: Employee name, address, and social security number; correct work classification; hourly rate of monetary wages paid; rate of any bona fide fringe benefits provided; number of daily and weekly hours worked; gross wages earned; all deductions taken; and actual net wages paid.

- 2.3.7 **Employees.** Perform or obtain legally permissible drug testing and background checks of prospective employees; contractor is responsible for all associated costs. Pay its employees and withhold tax and report all taxes and issue each employee a W-2 form at the end of the year, as required by law. Maintain unemployment, general liability, workers compensation and fidelity insurance with respect to Contractor's employees.
- 2.3.8 **Permits.** If required, the Contractor shall obtain all required permits pertaining to any assigned work (NOTE: The Agency will reimburse the Contractor for the government-mandated fees pertaining to such permits, but not for additional labor). All work will be performed in a workmanlike manner and will adhere to State and Local codes including the City of Toledo codes.
- 2.3.9 **Debris.** Clean work areas daily, at the end of the workday, of all work-generated debris; DO NOT leave any debris outside of the unit or onsite.
- 2.3.10 **Normal Agency Work Hours.** The Agency's typical work week is Monday-Friday, 8:30 AM to 5:00 PM.
- 2.3.11 **Lead Based Paint Policy** Contractors shall comply with the Lead-Based Paint Poisoning Act (42 U.S.C. et seq.), and HUD implementing regulations (24 CFR 968.4(h) and (i), 968.5(g) and (h) and 968.9 (e).
- 2.3.12 LMH reserves the right to negotiate fees and specifications with these casualty loss units as the insurance company is providing the funding for the renovation work, less any deductible. The goal is to come as close as possible to the reimbursement amount. However, the specifications that are provided by the Architect will govern as the units may have improvements such as current code requirements that may not be in an insurance estimate. LMH also reserves the right to use the alternate deductions in the order that makes the most sense to achieve budgetary requirements.

## 2.4 Bonding and Requirements

- 2.4.1 **Bonds.** The submitter shall include with their bid one of the forms of bid guarantee as required by HUD 5369 (9). Included form 00 42 26 Bid Bond shall be submitted as required.
- 2.4.2 **Performance and Payment Bonds.** Contractor will be required to pay for and furnish a satisfactory performance and payment bond for any construction related task order issued by LMH to the successful bidder that has a value of \$50,000 or more for construction related work.

## 3.0 BID FORMAT.

- 3.1 **Two-step Bidding Process.** All bidders will initially submit the documentation/information detailed within the following listed Step #1 of the following Table No. 3 herein. Then, the Agency anticipates that it will notify the apparent low bidder(s) to



submit, within 5 days after being notified to do so, the information detailed within the following detailed Step #2 within the same Table.

- 3.1.1 Bid Submittal.** All bids submitted in response to this IFB must be formatted in accordance with the sequence noted within the table below. None of the proposed services may conflict with any requirement the Agency has published herein or has issued by addendum. Please submit your bid in the following order:

[Table No. 3]

IFB Section	Item No.	Description
3.1.1.1		<b>Step #1:</b> Initial documentation/information to be submitted unfolded within a sealed envelope by all bidders prior to the posted bid submittal deadline.
3.1.1.1.1	1	<b>Form of Bid.</b> This Form is attached hereto as <b>Attachment A</b> to this IFB document. This 2-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the initial bid submittal.
3.1.1.1.2	2	<b>Bid Form Attachment H - Place behind the Form of Bid.</b>
3.1.1.1.3	3	<b>Bid Breakdown by Division Attachment I1 and I2</b>
3.1.1.1.4	4	<b>Bid Bond (and form 00 42 26) Attachment G</b>
3.1.1.1.5	5	<b>Preliminary Start-Finish Schedule Attachment J</b>
3.1.1.1.6	6	<b>Subcontractor Listing Attachment K</b>
3.1.1.1.8	7	<b>Signed Table of Contents Attachment L</b>
3.1.1.1.8	8	<b>Profile of Firm Attachment C</b>
3.1.1.1.9	9	<b>Form HUD-5369-A (11/92), Representations, Certifications, and Statements of Bidders, Public and Indian Housing Programs.</b> This Form is attached hereto as <b>Attachment B-1</b> to this IFB document. This 4-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.
3.1.1.1.10	10	Every proposer is to include and submit Section 3 documentation whether the proposer is claiming a Section 3 Business or not. Any Proposer claiming a Section 3 Business shall fully complete and execute the Section 3 Business Self-Certification Form (Attachment D1) and any additional required data required; and the Section 3 Individual Low-Income Person Self-Certification Form (Attachment D-2)  <b>Please note:</b> Any offeror that is <b>not</b> claiming Section 3 <b>MUST</b> place “N/A” in all three election boxes on the Section 3 Business Self-Certification Form and submit with the bid.

3.1.1.2	<b>Step #2:</b> Documentation/information to be submitted, within 5 days, only by the apparent low bidder(s) when directed to do so by the Agency.	
3.1.1.2.1	1	<b>Licensing.</b> Submit under this Tab the license(s) detailed within the following Section 5.4 herein.
3.1.1.2.5	2	<b>Client Information.</b> The bidder shall submit a listing of 3 former or current clients, including multi-family housing (e.g. apartment complexes of a similar nature), for whom the bidder has performed similar or like services to those being proposed herein. The listing shall, at a minimum, include:
3.1.1.2.5.1		The client's name;
3.1.1.2.5.2		The client's contact name;
3.1.1.2.5.3		The client's telephone number and e-mail address;
3.1.1.2.5.4		A brief narrative description and scope of the service(s) and the dates the services were/are provided and the amount of the contract.
3.1.1.2.7	3	<b>Subcontractor/Joint Venture Information (Optional Item).</b> The bidder shall identify hereunder whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the bid is a joint venture with another firm. Such information pertaining to subcontractors shall include for each such firm the: firm name; name of contact person; telephone and email address; and the State of Ohio contractor license number.
3.1.1.2.8	4	HUD - 2530 Previous Participation Certificate Attachment S
	4	HUD 50071 (01/14), Schedule of <i>Certification of Payments to Influence Federal Transactions</i> G-11
	4	Standard Form LLL (Rev. 01/14), <i>Disclosure of Lobbying Activities</i> G-12
3.1.1.2.9	5	A fully completed Form W-9, Request for Taxpayer Identification Number and Certification (Attachment U, attached hereto).
3.1.1.2.10	<b>Insurance Certificates.</b> The apparent successful bidder will also direct its insurance broker or carrier to deliver directly to the Agency (by email is preferred) the insurance certificates detailed within the following Sections 5.4.1 through 5.4.3 herein. NOTE: The apparent successful bidder will NOT deliver these certificates—the insurance broker or carrier will do so.	
	To be submitted by the Pre-Construction kick-off meeting	
3.1.1.2.11	Subcontractor Submittal (Attachment V)	
3.1.1.2.12	Construction Schedule	

### 3.2 Recap of Proposed Fees.

**3.2.1** *The proposed fees shall be submitted by the bidder and received by the Agency.* Please use the Bid Form Provided (Attachment H) and include behind the Form of Bid (Attachment A). Please price the projects listed on the bid form with alternate deducts, if any. Following the opening of the bids, the apparent low bidder will be identified. The bids will be analyzed and submitted to the LMH Board of Commissioners for authorization to award a contract.

**3.2.2 No Deposit/No Retainer.** The Agency will NOT pay any deposit or retainer fees as a result of award of the ensuing contract. This means that the Agency will pay the successful bidder(s) for the firm-fixed fees.

**3.2.2 Prior Agency Approval Required.** Please note that the successful bidder shall NOT conduct any work without the prior written authorization of the Agency representative (this “prior written authorization” may take the form of the Notice to Proceed or Notice of Intent to Award to the successful bidder by the Agency and acknowledged by return email by the successful bidder). Failure to abide by this directive shall release the Agency of any obligation to pay the successful bidder for any work conducted without the noted prior written authorization.

**3.3 Bid Submission.** All “hard-copy” bids must be submitted and time-stamped received in the designated Agency office by no later than the submittal deadline stated herein (or within any ensuing addendum). A total of 1 original signature copy of the “hard copy” bid submittal, shall be placed unfolded in a sealed package and addressed to:

**Lucas Metropolitan Housing Authority  
Attention: Gary McPheron  
424 Jackson Street, Toledo, OH 43604**

**3.3.1 Submission Package Markings.** The package exterior must clearly denote the above noted IFB number and must have the bidder’s name and return address.

**3.3.2 Submission Conditions.** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS, OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Bidders are not allowed to change any requirements or forms contained herein, either by making or entering onto these documents or the documents submitted any revisions or additions; and if any such additional marks, notations or requirements are entered on any of the documents that are submitted to the Agency by the bidder, such may invalidate that bid. If, after accepting such a bid, the Agency decides that any such entry has not changed the intent of the bid that the Agency intended to receive, the Agency may accept the bid and the bid shall be considered by the Agency as if those additional marks, notations, or requirements were not entered on such. By accessing the eProcurement Marketplace, registering, and downloading these documents, each prospective bidder that does so is thereby agreeing to confirm all notices that the Agency delivers to him/her as instructed, and by submitting a bid, the bidder is thereby agreeing to abide by all terms and conditions published herein and by addendum pertaining to this IFB.

**3.3.3 Submission Responsibilities.** It shall be the responsibility of each bidder to be aware of and to abide by all dates, times, conditions, requirements, and specifications set forth within all applicable documents issued by the Agency, including the IFB document, the documents listed within the following Section 3.8, and any addenda and required attachments submitted by the bidder. By virtue of completing, signing, and submitting the completed documents, the bidder is stating his/her agreement to comply with all conditions and requirements set forth within those documents. Written notice from the bidder not authorized in writing by the Contracting Officer (CO) to exclude any of the Agency requirements contained within the documents may cause that bidder to not be considered for award.

**3.4 Proposer’s Responsibilities – Contact with the Agency.** It is the responsibility of the bidder to address all communication and correspondence pertaining to this IFB process to the CO or designee only. Bidders must not make inquiry or communicate with any other Agency staff member or official (including members of the Board of Commissioners) pertaining to this IFB. Failure to abide by this requirement may be cause for the Agency to not consider a bid submittal received from any bidder who may not have abided by this directive.

**3.4.1 Addenda.** All questions and requests for information must be addressed in writing to the CO. The CO will respond to all such inquiries in writing by addendum to all prospective bidders (i.e. firms or individuals that have obtained the IFB Documents). During the IFB solicitation process, the CO will NOT conduct any *ex parte* (a substantive conversation—“substantive” meaning, when decisions pertaining to the IFB are made—between the Agency and a prospective bidder when other prospective bidders are not present) conversations that may give one prospective bidder an advantage over other prospective bidders. This does not mean that prospective bidders may not call the CO—it simply means that, other than making replies to direct the prospective bidder where his/her answer has already been issued within the solicitation documents, the CO may not respond to the prospective bidder’s inquiries but will direct him/her to submit such inquiry in writing so that the CO may more fairly respond to all prospective bidders in writing by addendum.

**3.5 Proposer’s Responsibilities – Equal Employment Opportunity and Supplier Diversity.** Both the Contractor and the Agency have, pursuant to HUD regulation, certain responsibilities pertaining to the hiring and retention of personnel and subcontractors. Bidders are advised that the goal of MBE/WBE participation on this project is a minimum of 35% of the overall contract cost.

**3.5.1** Within 2 CFR §200.321 it states:

**3.5.1.1** Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.

**3.5.1.2 (a)** The Non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

**3.5.1.3 (2) Affirmative steps must include:**

- 3.5.1.3.1 (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;**
- 3.5.1.3.2 (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;**
- 3.5.1.3.3 (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;**
- 3.5.1.3.4 (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;**
- 3.5.1.3.5 (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and**
- 3.5.1.3.6 (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.**

**3.5.2 Within HUD Procurement Handbook 7460.8 REV 2 it states:**

- 3.5.2.1 Section 15.5.A, Required Efforts.** Consistent with Presidential Orders 11625, 12138, and 12432, the [Agency] shall make every effort to ensure that small businesses, MBEs, WBEs, and labor surplus area businesses participate in [Agency] contracting.
- 3.5.2.2 Section 15.5.B, Goals.** [The Agency] is encouraged to establish goals by which they can measure the effectiveness of their efforts in implementing programs in support of . . . contracting with disadvantaged firms. It is important to ensure that the means used to establish these goals do not have the effect of limiting competition and should not be used as mandatory set-aside or quota, except as may otherwise be expressly authorized in regulation or statute. Some localities have adopted minority contracting set-aside policies or geographic limitations, which may be in conflict with Federal requirements for full and open competition.

**3.5.3 Within our Agency Procurement Policy it states that our Agency will:**

**3.5.3.1 Assistance to Small and Other Business, Required Efforts:**

**Lucas Metropolitan Housing**

- 3.5.3.1.1 Including such firms, when qualified, on solicitation mailing lists;
- 3.5.3.1.2 Encouraging their participation through direct solicitation of bids or bids whenever they are potential sources;
- 3.5.3.1.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- 3.5.3.1.4 Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- 3.5.3.1.5 Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- 3.5.3.1.6 Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR Part 75 (so-called Section 3 businesses); and
- 3.5.3.1.7 Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.
- 3.5.3.1.8 The contractor's compliance with Executive Order and the regulations in 41 CFR Part 60-4 shall be based in its implementation of the Equal Opportunity Clause, specific Affirmative Action obligation required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goal shall be a

violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- 3.5.3.1.9** The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
- 3.5.3.1.10** As used in this notice, and in the contract resulting from this notification, the “Covered Area” is Lucas County, Ohio.
- 3.5.3.1.11** Payment for labor as it applies to this project shall not be less than the amount established by the U.S. Department of Housing and Urban Development. Each bidder must ensure that all employees and applicants for employment are not discriminated against because of their race, color, religion, sex, national origin, disability, handicap, age, or ancestry.

#### **3.5.4 504 Non-Discrimination Notice**

IN ACCORDANCE WITH SECTION 504 of the Rehabilitation Act of 1973, the Lucas Metropolitan Housing Authority hereby notifies the general public that:

- (i.) No qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any Federally assisted program or activity administered by the Lucas Metropolitan Housing Authority;
- (ii.) The Lucas Metropolitan Housing Authority will provide employment opportunities, benefits, access to housing and directly or through contractual or other arrangements, subject qualified individuals with handicaps to discrimination solely on the basis of handicap; and,
- (iii.) The Lucas Metropolitan Housing Authority will not participate in any contractual or other relationship that has the effect of subjecting qualified individuals with handicaps to discrimination solely on the basis of handicap.

It is the intention of the Lucas Metropolitan Housing Authority to take reasonable, affirmative steps to increase access and opportunities for handicapped individuals in all programs, services, and administrative operations.

IF YOU HAVE A VISUAL IMPAIRMENT, HEARING, OR PHYSICAL IMPAIRMENT THAT DOES NOT PERMIT YOU TO READ THIS NOTICE, LUCAS METROPOLITAN HOUSING WILL PROVIDE APPROPRIATE ASSISTANCE.

IF YOU HAVE A HEARING IMPAIRMENT, OUR TTY NUMBER IS 259-9529, SAME HOURS. ASSISTANCE TO ENSURE EQUAL ACCESS TO THIS NOTICE WILL BE PROVIDED IN A CONFIDENTIAL MANNER AND SETTING

**3.6 Pre-bid meeting.** The scheduled pre-bid meeting identified on Page 3 of this document is, pursuant to HUD regulation, not mandatory. Many prospective bidders have previously responded to an IFB with a submittal and feel comfortable in doing so without attending the pre-bid meeting. Typically, such meetings last 1/2 hour or less at each site, though such is not guaranteed. The purpose of this meeting is to assist prospective bidders in having a full understanding of the IFB documents so that he/she feels confident in submitting an appropriate bid; therefore, at this meeting the Agency will conduct an overview of the IFB documents, including the attachments. Prospective bidders may also ask questions including scope questions, though the CO may require that some such questions are delivered in writing prior to a response. Whereas the purpose of this meeting is to review the IFB documents, attendees should have a copy of the IFB documents available during the meeting. Following the pre-bid meeting will be a walk-thru of the casualty loss units and it is highly recommended that the contractor attend.

**3.7 Time for Receiving Bids.** Bids received prior to the time set as the deadline for the receipt by the Agency of the bid submittal shall be securely kept, unopened, by the Agency. The CO, whose duty it is to open such bids, will decide when the specified time has arrived. No bid received after the designated deadline shall be considered, except as detailed Section 5 of form HUD-5369 (10/2002), *Late Submissions, Modifications, and Withdrawal of Bids*), each form attached hereto.

**3.8 Recap of Attachments.** It is the responsibility of each bidder to verify that he/she has downloaded the following attachments pertaining to this IFB, which are hereby by reference included as a part of this IFB:

[Table No. 4]

Attachment	Description
	This IFB Document
A	Form of Bid
B	*form HUD-5369-A (11/92), <i>Representations, Certifications, and Other Statements of Bidders, Public and Indian Housing Programs</i>
C	Profile of Firm Form
D	Section 3 Business Self-Certification Instructions
E	*form HUD-5369 (10/2002), <i>Instructions to Bidders for Contracts, Public and Indian Housing Programs</i>
F	Supplemental Instructions to Bidders (SIBC)
G	Bid Bond (form 00 42 26)
G-3	*HUD-5370 (1/2014), <i>General Conditions for Construction Contracts - Public Housing Programs</i>
G-4	HUD-92554M (Rev. 06/14), <i>Supplementary Conditions of the Contract for Construction</i>



G-11	HUD 50071 (01/14), Schedule of <i>Certification of Payments to Influence Federal Transactions</i> (NOTE: This form will only be completed and included as a part of the ensuing contract if the Agency anticipates that total awards pursuant to the ensuing contract may or will exceed \$100,000.)
G-12	Standard Form LLL (Rev. 01/14), <i>Disclosure of Lobbying Activities</i> (NOTE: This form will only be completed and included as a part of the ensuing contract if the Contractor designates an affirmative answer to Item No. (2) within the immediate identified form 50071.)
H	Bid Form
I1-2	Bid Breakdown by Division for each building
J	Construction Start-Completion for each unit and overall project
K	Subcontractor Listing
L	Table of Contents for Acknowledgement
M	Project Labor Agreement
O	*Davis Bacon Wage Determination #OH20230088 Building Rate MOD1, 3.08.2024
Q	* Davis Bacon Submittal Requirements
R	*Davis Bacon Payroll Form
V	*Subcontractor Submittal
W	*Final Wage Payment Affidavit
X	*Contractor Release
Y	Specifications from MDA Engineering, Inc. - Architect
Z	Plans for each of the buildings from MDA Engineering, Inc. - Architect

#### 4.0 **BID EVALUATION.**

4.1 **Public Opening.** At the set date and time, all bids received will be opened and publicly read aloud by the CO, including the company name of the bidder and the total calculated costs proposed. At the bid opening the Agency will only disclose the following information: (a) The company name of each bidder; and (b) the calculated total amount bid. A copy of the bid tabulation or recap recorded will be made available to each member of the public attending such opening and to anyone who requests such afterwards. The bids will not be made available for inspection by anyone at this time; the Agency will, at a later time, review all bids in detail and will, in a timely manner (within 5 days), notify all bidders of any bidder that is, as a result of the more detailed inspection of bids submitted, ruled to be non-responsive or not-responsible (please remember, as detailed within Section 8(d) of form HUD-5369 the Agency reserves the right to, as determined by the Agency, “waive informalities and minor irregularities” in the offers received. Bids will be available for inspection by the public after the award has been completed.

4.1.1 **Ties.** In the case of bids, the award shall be decided as detailed within Section 6.12.C of HUD Procurement Handbook 7460.8 REV 2, by “drawing lots or other random means of selection.”

- 4.2 Responsive Evaluation.** After the public opening the “hard copy” bid submittals received will be evaluated in private for responsiveness (i.e. meets the minimum of the requirements). Firms not meeting the minimum that are deemed to be non-responsive will be notified of such in writing by the Agency in a timely manner (in any case, in no less than 5 days after such determination is made).
- 4.3 Responsible Evaluation.** The Agency will evaluate each bid submitted as to responsibility (e.g. a firm that is qualified, responsible and able to provide to the Agency the required services). If the Agency ascertains that such firm has the required ability, capability, experience, knowledge, licensing, insurance and resources to provide the required services, the Agency may proceed with award as detailed herein. If the Agency determines that such firm is deemed to be not responsible, such firm will be notified of such in writing by the Agency in a timely manner (in any case, in no less than 5 days after such determination is made); in such case the Agency may proceed with the noted Responsive and Responsible Evaluations with the next lowest bidder.
- 4.3.1** The Agency will take the contract award to the Agency Board of Commissioners (BOC) for approval of the award prior to executing a contract with the apparent successful bidder.
- 4.4 Restrictions.** Any and all persons having ownership interest in a bidder entity or familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a bidder entity will be excluded from participation in the evaluation of the bid.

## **5.0 CONTRACT AWARD.**

- 5.1 Contract Award Procedure.** If a contract is awarded pursuant to this IFB, the following detailed procedures will be followed:
- 5.1.1** By completing, executing and submitting a bid, the “bidder is thereby agreeing to abide by all terms and conditions pertaining to this IFB as issued by the Agency, **obtained on the eProcurement Marketplace,**” including the contract clauses already attached as Attachments G and G-3, G-4, G-6, G-11 and G-12, each attached hereto. Accordingly, the Agency has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published.
- 5.2 Contract Conditions.** The following provisions are considered mandatory conditions of any contract award made by the Agency pursuant to this IFB:
- 5.2.1 Contract Form.** The Agency will not execute a contract on the Contractor’s form—contracts will only be executed on the Agency form, and by submitting a bid the Contractor agrees to do so. However, the Agency will during the IFB process (prior to the posted question deadline) consider any contract clauses that the bidder wishes to include therein and submits in writing a request for the Agency to do so; but the failure of the Agency to include such clauses does not give the Contractor the right to refuse to execute the Agency’s contract form. It is the responsibility of each prospective bidder to notify the Agency, in writing, prior to submitting a bid, of any contract clause that he/she is not willing to include in the final executed contract and abide by. The Agency will consider and respond to such written correspondence,

and if the prospective bidder is not willing to abide by the Agency's response (decision), then that prospective bidder shall be deemed ineligible to submit a bid.

**5.2.1.1 Mandatory HUD Forms.** Please note that the Agency has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as a part of this IFB.

**5.2.2 Assignment of Personnel.** The Agency shall retain the right to demand and receive a change in personnel assigned to the work if the Agency believes that such change is in the best interest of the Agency and the completion of the contracted work.

**5.2.3 Unauthorized Subcontracting Prohibited.** The Contractor shall not assign any right, nor delegate any duty for the work proposed pursuant to this IFB (including, but not limited to, selling or transferring the contract) without the prior written consent of the CO. Any purported assignment of interest or delegation of duty, without the prior written consent of the CO shall be void and may result in the cancellation of the contract with the Agency, or may result in the full or partial forfeiture of funds paid to the Contractor as a result of the proposed contract; either as determined by the CO.

**5.2.4 Contract Period.** The Agency anticipates that it will initially award a contract for the period of up to 5 months and expects that some of the units may be ready for completion before that.

**5.3 Licensing and Insurance Requirements.** Prior to award (but not as a part of the bid submission) the *Contractor* will be required to provide:

**5.3.1 Workers Compensation Insurance.** An original certificate evidencing the bidder's current industrial (worker's compensation) insurance carrier and coverage amount (NOTE: Workers Compensation Insurance will be required of any Contractor that has employees other than just the owner working on-site to provide the services);

**5.3.2 General Liability Insurance.** An original certificate evidencing General Liability coverage, naming the Agency as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the Agency as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a maximum deductible amount of \$5,000;

**5.3.3 Automobile Insurance.** An original certificate showing the bidder's automobile insurance coverage in a combined single limit of \$500,000. 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 \$100,000/\$300,000 and medical pay of \$5,000.

- 5.3.4 City/County/State Business License.** If applicable, a copy of the bidder's business license allowing that entity to provide such services within the City of Toledo, Lucas County, and/or the State of Ohio.
- 5.3.5 Builders Risk.** Contractor will furnish builders risk as part of his insurance coverage on the work that is under contract.
- 5.3.6 Certificates/Profile of Firm Form.** Pertaining to the aforementioned (within Sections 5.4.1 through 5.4.4) insurance certificates and licenses, each bidder is required to enter related information where provided for on the Profile of Firm Form (do not attach or submit copies of the insurance certificates or licenses within the bid submittal—we will garner the necessary documents from the successful bidder prior to contract execution).
- 5.4 Right to Negotiate Final Fees.** The Agency shall retain the right to negotiate the amount of fees that are paid to the Contractor, meaning the fees proposed by the top-rated bidder may, at the Agency's options, be the basis for the beginning of negotiations. Such negotiations shall begin after the Agency has chosen a top-rated bidder. If such negotiations are not, in the opinion of the CO successfully concluded within 5 business days, the Agency shall retain the right to end such negotiations and begin negotiations with the next-rated bidder. LMH may use the alternates on the bid form to arrive at a final price.
- 5.5 Contract Service Standards.** All work performed pursuant to this IFB must conform and comply with all applicable local, state, and federal codes, statutes, laws, and regulations.
- 5.6 Prompt Return of Contract Documents.** All documents required to complete the contract, including contract signature by the successful bidders, shall be provided to the Agency within 10 workdays of notification by the Agency.
- 5.7 Lump Sum Cost Breakdown.** The Agency reserves the right to, at any time, request and receive from any or all bidders a LSCB of any or all the costs bid. The bid documents constitute an outline of the work to be completed by the bidder. These documents are intended to include all major items, and the lump sum cost breakdown computed therefrom will be the maximum compensation for all work and materials whatsoever furnished by the bidder in order to comply with the bid documents in their present form, whether or not indicated in the approximate quantities or pertaining to the items of work as listed.
- 5.8 Rejection of bids.** The Agency reserves the right to, at any time during the bid process, reject any or all bids received. In the case of rejection of all bids, the Agency reserves the right to advertise for new bids or to proceed to do the work otherwise, if in the judgment of the Agency, the best interest of the Agency will be promoted.
- 5.8.1** Prospective bidders acknowledge by downloading and receiving the IFB documents and/or by submitting a bid that the submission of a bid to the Agency is not a right by which to be awarded that bid, but merely an offer by the prospective bidder to perform the requirements of the IFB documents in the event the Agency decides to consider an award to that bidder.

- 5.9 Irregular Bid Submittal.** A bid shall be considered irregular for any one of the following reasons, any one or more of which may, at the Agency 's discretion, be cause for rejection:
- 5.10.1** If the forms furnished by the Agency are not used or are altered or if the bid costs are not submitted as required and where provided (especially within the eProcurement Marketplace).
  - 5.10.2** If all requested completed attachments do not accompany the bid submitted.
  - 5.10.3** If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning or give the bidder submitting the same a competitive advantage over other bidders.
  - 5.10.4** If the bidder adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.
  - 5.10.5** If the individual Pricing Items submitted by a specific bidder are unbalanced in the sense that the listed price of any cost item departs by more than 25% from the Agency's cost estimate for that item.
- 5.11 Disqualification of Bidders.** Any one or more of the following shall be considered as sufficient for the disqualification of a bidder and the rejection of his/her bid:
- 5.11.1** Evidence of collusion among prospective or actual bidders. Participants in such collusion will receive no recognition as bidders or bidders for any future work of the Agency until such participant shall have been reinstated as a qualified bidder or bidder. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
  - 5.11.2** More than one bid for the same work from an individual, firm, or corporation under the same or different name(s), unless such was specifically allowed by the Agency within the bid documents issued, including by addendum.
  - 5.11.3** Lack of competency, lack of experience and/or lack of adequate machinery, plant, and/or other resources.
  - 5.11.4** Documented unsatisfactory performance record as shown by past work for the Agency or with any other local, State or Federal agency, judged from the standpoint of workmanship and progress.
  - 5.11.5** Incomplete work, which in the judgment of the Agency, might hinder or prevent prompt completion of additional work, if awarded.
  - 5.11.6** Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
  - 5.11.7** Failure to comply with any qualification requirement of the Agency.

- 5.11.8 Failure to list, if required, all subcontractors (if subcontractors are allowed by the Agency) who will be employed by the successful bidder(s) to complete the work of the bid contract.
  - 5.11.9 As required by the IFB documents, failure of the successful bidder to be properly licensed by the State of Ohio and/or to be insured by a general liability and/or worker's compensation policy.
  - 5.11.10 Any legal reason to be determined, in good faith, to be in the best interests of the Agency.
- 5.12 **Burden of Proof.** If requested by the Agency, it shall be the responsibility of the bidder(s) to furnish the Agency with sufficient data or physical samples, within a specified time, so that the Agency may determine if the goods or services offered conform to the Specifications.

## 6.0 **Right to Protest**

6.01 **Rights.** Any prospective or actual bidder, offeror, or Contractor who is allegedly aggrieved in connection with the solicitation of a bid or award of a contract, shall have the right to protest. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

6.0.1 An alleged aggrieved "protestant" is a prospective or actual bidder who feels that he/she has been treated inequitably by the Agency and wishes the Agency to correct the alleged inequitable condition or situation. To be eligible to file a protest with the Agency pertaining to an IFB or contract, the alleged aggrieved protestant must have been involved in the IFB process in some manner as a prospective bidder (i.e. registered and received the IFB documents) when the alleged situation occurred. The Agency has no obligation to consider a protest filed by any party that does not meet these criteria.

6.1 **Administrative Powers.** It is totally within the administrative powers of the ED to grant or deny any requests for administrative appeal. If, in the opinion of the ED, the alleged aggrieved protestant merits an administrative review, the ED shall direct that alleged aggrieved protestant to submit additional data.

6.2 **Procedure to Protest.** An alleged aggrieved protestant shall comply with the following protest procedures, and failure to comply in the manner prescribed shall automatically relieve the Agency from accepting or considering that protest:

6.2.1 The alleged aggrieved protestant must file, in writing, to the CO's Designee the exact reason for the protest, attaching any supportive data. The protestant must state within the written protest document specifically (not by inference) what action by the Agency or condition is being protested as inequitable, making, where appropriate specific reference to the IFB documents issued. The protest document must also state the corrective action requested. Failure by the alleged aggrieved protestant to fully submit such information shall relieve the Agency from any responsibility to consider the protest and take any corrective action.

- 6.2.2 The written instrument containing the reason for the protest must be received by the CO's Designee within 10 days after the occurrence of any of the following:
- 6.2.2.1 The deadline for receiving bids.
  - 6.2.2.2 Receipt of notification of the results of the evaluation or the award; or
  - 6.2.2.3 The alleged aggrieved protestant knows or should have known the facts.
- 6.2.3 In any case, protests shall be filed no more than 10 days after any of the above (unless the occurrence being protested occurred in its entirety after the bid deadline). Protests received after these dates shall not be considered.
- 6.2.4 The CO's Designee shall review the written protest and supportive data, if any. He/she shall, within 10 days after receipt of the written protest, issue a written opinion and decision. This document shall state the reasons for the action taken as well as inform the alleged aggrieved protestant of the right of further administrative review. A copy of this written opinion and decision shall be forwarded to the ED.
- 6.2.5 **Administrative Appeal.** If the alleged aggrieved protestant does not agree with the written opinion and decision issued by the CO's Designee, the alleged aggrieved protestant may, after receipt of the written opinion and decision issued by the CO's Designee request an administrative appeal hearing be granted. The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestant to comply shall automatically relieve the Agency from accepting or acting on that request for administrative hearing:
- 6.2.5.1 The alleged aggrieved protestant must file, in writing, his/her request for an administrative hearing, to the ED, within 5 days of receipt of the written opinion and decision and failure to do so within such 5 days shall relive the Agency of any responsibility to consider such request.
  - 6.2.5.2 The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.
  - 6.2.5.3 It shall be within the administrative powers of the ED to, after review of the request submitted, grant or deny any request for administrative appeal.
  - 6.2.5.4 If the ED, after complete review of the alleged aggrieved protestant's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the alleged aggrieved protestant. A decision rendered under this paragraph shall be

made within 10 days after the receipt of the alleged aggrieved protestant's request for an administrative hearing. This decision shall be final without further administrative recourse.

**6.2.5.5** If the ED, after review of the alleged aggrieved protestant's written request, decides that the request merits further consideration, he/she shall forward the protestant's written request, along with a cover letter explaining why it merits further consideration and with a recap of all bids submitted and a copy of the original written protest, to the Agency Legal Counsel for consideration. The Agency Legal Counsel shall issue to the alleged aggrieved protestant a decision, in writing, within 10 days of his/her receipt of such documents.

**6.2.5.6** Such written decision delivered to the alleged aggrieved protestant shall exhaust the Agency internal protest and administrative appeal process available to the alleged aggrieved protestant.

## **7.0 Disputed Billings (Charges).**

**7.1 Procedures.** In addition to the procedures detailed within Clause No. 7 of Contract Appendix No. 1, form HUD-5370 (1/2014), *General Conditions for Construction Contracts - Public Housing Programs*, in the event that the Agency disputes any portion of its billing(s), the Agency shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

**7.1.1** The Agency's representative shall, within 10 days after the Agency's receipt of such billing, formally notify the Contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

**7.1.2** If such dispute cannot be resolved by the Contractor's response, within 10 days after such notification is given, the CO and the Contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.

**7.1.3** If the CO and the Contractor's representative are unable to resolve the dispute through such discussion within 10 days, the Agency shall, within 10 days thereafter, either (NOTE: Within the following, "appropriate," at the discretion of the Agency):

**7.1.3.1** Pay the disputed charges and reserve the right to submit the matter to the appropriate District Court in the State of Ohio;

**7.1.3.2** Not pay the disputed charge and submit the matter to the appropriate district court in the State of Ohio;

**7.1.3.3** Not pay the disputed charge and allow the Contractor to submit the matter either to the appropriate District Court in the State of Ohio.



## **8.0 Additional Considerations.**

### **8.1 Right of Joinder.**

**8.1.1** Any political subdivision within the State of Ohio may be granted the privilege of joining the awarded contract, only at the option of the successful bidder. If the successful bidder so grants such a privilege, the terms and conditions of the IFB documents, including the ensuing contract, may be passed on to the joining political subdivision by the successful bidder.

**8.1.2** The successful bidder shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the successful bidder allows another political subdivision to join the Agency contract, it is expressly understood that the Agency shall in no way be liable for the joining political subdivision obligations to the successful bidder in any manner whatsoever.

**8.2 Non-Escalation.** Unless otherwise specified within the IFB documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.

**8.3 Funding Restrictions and Order Quantities.** The Agency reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the Agency, if:

**8.3.1** Funding is not available;

**8.3.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies: or,

**8.3.2** The Agency's requirements in good faith change after award of the contract.

### **8.4 Warranty.**

**8.4.1** The services provided under the contract shall conform to all information contained within the RFP documents as well as applicable Industry Published Technical Specifications, and if one of the above-mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.

**8.4.2** The liability of the successful bidder to the Agency (except as to title) arising out of the furnishing of the services or of its use under the terms of the contract shall not exceed the correcting of the defect(s) in the services as provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose.

### **8.5 Indemnity.**

**8.5.1** The successful bidder shall protect, indemnify and hold the Agency, its officers, employees, agents, consulting engineers and other retained consultants harmless

from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character which the Agency, its officers, employees, agents, consulting engineers or other retained consultants may suffer, or which may be sought against, recovered from or obtainable against the Agency, its officers, employees, agents, consulting engineers or other retained consultants such as:

- 8.5.1.1** as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act on the part of the successful bidder, its subcontractors or agents, or anyone directly or indirectly employed by any subcontractor or agent, in the fulfillment or performance of the terms, conditions or covenants that are contained in this contract or agreement, regardless of whether or not the occurrence which gave rise to such claim, damage, loss, suit, action, judgment or expense was caused, in part, by any party indemnified hereunder; or
- 8.5.1.2** as a result of, or by reason of, or arising out of, or on account of, or in consequence of, any neglect in safeguarding the work; or
- 8.5.1.3** through the use of unacceptable materials or products, or both, which may be defective or manufactured, designed, or installed so as to give rise to a claim; or
- 8.5.1.4** because of any claim or amount recovered under the "Ohio Industrial Insurance Act", or any other law, ordinance, or decree, which claim, or recovery, arose out of or is attributable to any act or failure to act on the part of the successful bidder in the fulfillment or performance of the terms, conditions and covenants that are contained in this contract. Any money due by the successful bidder under and by virtue of this contract which is considered necessary by the Agency for such purpose, may be retained by the Agency for its protection; or in case no money is due, its surety may be held until all such claims, damages, losses, suits, actions, decrees, judgments, attorney's fees and court costs and other expenses of any kind or character as aforesaid shall have been settled and suitable evidence to that effect furnished to the Agency provided, however, that money due the successful bidder will not be withheld when the successful bidder produces satisfactory evidence that it is adequately protected by public liability and property damage insurance, if required.
- 8.5.1.5** In this connection, it is expressly agreed that the successful bidder shall, at its own expense, defend the Agency, its officers, employees, agents, consulting engineers and other retained consultants, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the successful bidder has indemnified the Agency, its officers, employees, agents, consulting engineers and other retained

consultants against, and if the successful bidder shall fail to do so, the Agency shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the successful bidder including attorney's fees and court costs; provided, however, that if the forum in which such claim suit or action is heard determines that the occurrence that gave rise to the same was caused, in whole or in part, by any party who is indemnified hereunder, the Agency shall reimburse the successful bidder for all, or the indemnified party's proportionate share, as the case may be, of the costs of such defense.

**8.5.2** Reimbursement to the successful bidder by the Agency, in whole or in part, for the costs of protecting traffic shall not serve to relieve the successful bidder of its responsibility as set forth in the IFB documents.

**8.5.3** The successful bidder guarantees the payment of all just claims for materials, supplies and labor, and all other just claims against it or any subcontractor, in connection with the contract.

**9.0** **Public Records Law: Public Records Law.** All bids/proposals submitted to LMH are subject to the Ohio Public Records Law (O.R.C. 149.43 and the Sunshine Act [5 USC 522(b)]) and may be subject to disclosure to the public. Information in proposals that would be deemed a trade secret or otherwise not subject to disclosure under public records laws shall be clearly indicated as such by the contractor, including citations from the Ohio Public Records Law or the Sunshine Act for the exemptions. Also, the contractor shall submit one hard copy and upon request, one electronic copy of its proposal and other submissions, which has been redacted of all trade secrets and other information not subject to disclosure pursuant to a public records request. Failure to do so may subject the entire contents to disclosure under public records laws.

**10.0** **ADDITIONAL CONTRACT PROVISIONS**

The following contract provisions are in effect pursuant to 2 CFR 200.326 for non-federal entity contracts:

Contract Work Hours and Safety Standards (40 U.S.C. 3701-3708)

Copeland "Anti-Kickback" Act (40 U.S.C. 3145)

Clean Air Act (42 U.S.C. 7401-7671q.)

Federal Water Pollution Control Act (33 U.S.C. 1251-1387) as amended

Mandatory policies on energy efficiency contained in the state energy conservation plan

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Executive Order 11061 to prevent discrimination by agencies that utilize federal funds

Title VI of the Civil Rights Act of 1964, Public Law 88-352

Public Law 90-284, Title VIII of the Civil Rights Act of 1968

The Age Discrimination Act of 1975

Anti-Drug Abuse Act of 1988

HUD Information Bulletin 909-23 regarding patent and copyright infringement

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