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## **TPS'S RESERVATION OF RIGHTS:**

- 1.** TPS reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by TPS to be in its best interests.
- 2.** TPS reserves the right not to award a contract pursuant to this RFP and issue subsequent RFP's if in TPS's best interest.
- 3.** TPS reserves the right to terminate a contract awarded pursuant to this RFP at any time for its convenience upon 10 days written notice to the successful proposer(s).
- 4.** TPS reserves the right to require additional information from any Respondent to assist in its evaluation. The information shall be submitted in the form required by TPS within two (2) days of written request or the proposal shall be deemed non-responsive.
- 5.** TPS reserves the right to retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals without the written consent of TPS's Procurement Officer (PO).
- 6.** TPS reserves the right to negotiate any fees proposed by all respondents.
- 7.** TPS reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services, proposals deemed non-responsive, respondents deemed not responsible, and conditional proposals.
- 8.** TPS shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- 9.** TPS reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the respondent regardless of their inclusion in the reference section of the proposal submitted, including any previous business conducted with the Touchstone Property Services.
- 10.** TPS reserves the right to a minimum acceptance period of 90 calendar days. "Acceptance Period" means the number of calendar days available to TPS for awarding a contract from the date specified in this solicitation for the receipt of proposals.
- 11.** TPS shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. By accessing TPS's Internet Website (hereinafter, the "noted Internet System" or the "System") and by downloading this document, each prospective proposer is thereby agreeing to abide by all terms and conditions listed within this document and within the noted Internet System, and further agrees that he/she will inform the PO in writing within 5 days of the discovery of any item listed herein or of any item that is issued thereafter by TPS that he/she feels needs to be addressed. Failure to abide by this time frame shall relieve TPS, but not the prospective proposer, of any responsibility pertaining to such issue.

## 1.0 GENERAL CONDITIONS:

**1.1 Applicability:** If referred to within the text of such, these ITP (Instructions to Proposers) shall be applicable to all Requests for Proposals (RFP) solicitations that the Touchstone Property Services (TPS) conducts and shall be applicable to any contract that TPS awards to or signs with any firm, agency or individual pursuant to that RFP. A copy of these ITP shall be made available to any actual or prospective proposer, or contractor who does business with or intends to do business with TPS.

**1.1.1** Unless otherwise specified within the RFP or contract documents, in the event that any provision in any document listed herein conflicts with any provision within these ITP, the provision in the RFP or contract document shall govern. Further, in the case of any attached HUD forms (more specifically: HUD-5369-C (8/93); and HUD-5370-C Section I and/or Section II), the information within such HUD form(s) shall govern any other information issued, especially that issued within any Authority-created forms that are issued as a part of this solicitation.

**1.2 Definitions** (pertaining to all RFP documents issued by TPS pertaining to this RFP, including the attachments and the ensuing contract):

**1.2.1 "Contracting Officer"** when named within an RFP document shall refer to either the CEO or the person he/she has delegated such responsibilities to.

**1.2.2 "Contract"** refers to the fully executed written agreement that ensues from the RFP. Whereas all RFP documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within the RFP document, such is referring to both the RFP documents and the ensuing contract document.

**1.2.3 "Contractor"** and the term "successful proposer" may be used interchangeably.

**1.2.4 "Days"** unless otherwise directed, shall refer to calendar days.

**1.2.5 "CEO"** is CMHA Chief Executive Officer.

**1.2.6 "TPS"** is the Touchstone Property Services, its instrumentalities and affiliates. Unless otherwise defined herein or within the ensuing contract, whenever the term "TPS" is used without clearly designating a responsible Authority staff person, the proposer(s) shall assume that responsibility for that item rests with the PO.

**1.2.7 "HUD"** is the United States Department of Housing and Urban Development. HUD is the Federal agency that TPS receives some funding from; however, pertaining to this RFP, correspondences, including proposal submittals, received from each proposer must exhaust all provisions contained herein prior to contacting HUD (i.e. in the case of a protest).

- 1.2.8 **"Herein"** shall refer to all documents issued pursuant to the noted RFP, including the RFP documents and the attachments.
- 1.2.9 **"Offer"** is the proposal submittal referred to within the following Section 1.2.14 that the proposer delivers to TPS in response to the RFP.
- 1.2.10 **"Offeror" or "Offerors"** are the persons or firm which submit a proposal in response to a request for proposal.
- 1.2.11 **"Parties"** - When "the parties," "both parties" or "either party" is stated within the RFP documents or the contract, such refers to TPS and the successful proposer(s).
- 1.2.12 **"PO"** – is the procurement office.
- 1.2.13 **"Proposal" and/or "Proposal Submittal"** is the document that the proposer is required to, as detailed within the RFP document, deliver to TPS.
- 1.2.14 **"Protestor"** is a prospective proposer or proposer who feels that he/she has been treated inequitably by TPS and wishes TPS to correct the inequitable condition or situation. To be eligible to file a protest with TPS pertaining to an RFP or contract, the protestor must have been involved in the RFP process in some manner as a prospective proposer (i.e. registered and received the RFP documents).
- 1.2.15 **"Prospective Proposer" or "Proposer"** - A prospective proposer is a firm or individual who has been notified of the RFP solicitation and/or who has downloaded, requested and/or received the RFP documents and is considering responding with a proposal; a proposer is a firm or individual who has submitted a proposal in response to the RFP. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFP--meaning, certain notices (such as the Notice of Results of Evaluation) are typically only delivered to proposers and not to all prospective proposers.
- 1.2.16 **"Request for Proposals" (RFP)** is the competitive proposal process allowed by HUD, especially as defined within Chapter 7 of HUD Procurement Handbook 7460.8 REV 2.
- 1.2.17 **"RFP Document(s)"** - Whether stated in the singular or the plural, such refers to the body of documents, including attachments and the information posted on the cintimha.com Internet System (hereinafter, the "noted Internet System" or the "System"), that TPS makes available to all prospective proposers wherein is detailed TPS's requirements.
- 1.2.18 **"Solicitation" or "Competitive Solicitation"** is the RFP process detailed herein.

**1.3 Pre-Proposal Conference/Walk-thru:** A pre-proposal conference or walk-through may be scheduled. Pursuant to HUD regulations, the pre-proposal conference or walk-through is not mandatory, but is recommended. Potential proposers planning to attend should notify the Procurement Department at [procurement@cintimha.com](mailto:procurement@cintimha.com) of their intention to do so 24 hours in advance. The purpose of the conference is to assist prospective proposers in having a full understanding of the RFP requirements so that he/she feels confident in submitting an appropriate proposal; therefore, at this conference the PO will conduct an overview of the RFP documents, including attachments. Whereas the purpose of this conference is to review the RFP documents, attendees should bring a copy of the RFP documents with them; however, TPS *will not* distribute at this conference any copies of the RFP documents.

**1.4 Questions Regarding the RFP and Proposer's Responsibilities--Contact with TPS:** It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP process to the PO only. Proposers must not make inquiry or communicate with any other Authority staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for TPS to not consider a proposal submittal received from any proposer who has not abided by this directive.

**1.4.1 Addendum:** All questions and requests for information must be addressed in writing to the Procurement Department. The PO will respond to all such inquiries in writing by addendum posted to CMHA's website at <http://www.cintimha.com/business-opportunities.aspx>. Offerors are responsible for ensuring they receive all addenda. During the RFP solicitation process, the PO will NOT conduct any *ex parte* (a substantive conversation—"substantive" meaning, when decisions pertaining to the RFP are made—between TPS and a prospective proposer when other prospective proposers are not present) conversations that may give one prospective proposer an advantage over other prospective proposers. This does not mean that prospective proposers may not contact the PO it simply means that, other than making replies to direct the prospective proposer where his/her answer has already been issued within the solicitation documents, the PO may not respond to the prospective proposer's inquiries but will direct him/her to submit such inquiry in writing so that the PO may more fairly respond to all prospective proposers in writing by addendum.

**1.4.2** It is the responsibility of interested Offerors to review the solicitation documents and all addenda posted associated to this RFP.

## **2.0 CONDITIONS TO PROPOSE:**

**2.1 Pre-Qualification of Proposers:** Prospective proposers will not be required to pre-qualify in order to submit a proposal. However, all proposers will be required to submit adequate information showing that the proposer is qualified to perform the required work (i.e. Profile of Firm Form and required resumes). Failure by the prospective proposer to provide the requested information may, at TPS's discretion, eliminate that proposer from consideration, provided that all proposers were required to submit the

same information (in the case of a successful proposer(s), these requirements shall also apply in the context of the successful proposer or proposers).

## **2.2 RFP Forms, Documents, Specifications and Drawings:**

**2.2.1** 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.

**2.2.2** Each offeror shall furnish the information required by the solicitation; this includes but is not limited to completing and submitting all documents issued pursuant to this RFP. Offers signed by an agent shall be accompanied by evidence of that agent's authority. [HUD 5369 B §1]

**2.2.3** All information presented in response to the RFP must be included in the submitted response. There can be no information that is linked to a website that requires reviewers to access the website for consideration of content. Any such conditions will not be considered as part of the Respondent's proposal or of any resulting contract.

**2.2.4** Offers for services other than those specified will not be considered.

**2.2.5** Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.

**2.2.6** TPS shall reserve the right to, prior to award, revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued; such notice shall be made available or delivered in writing to each prospective and/or actual proposer.

**2.2.6.1** If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

**2.2.6.2** Offerors shall acknowledge receipt of any amendments to this solicitation by signing and returning the amendment, by identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer, or any other method specified in the RFP documents. TPS must receive the acknowledgement by the time specified for receipt of offers. [HUD 5369 B §3]

**2.2.6.3** Such changes that are issued before the deadline for receipt of proposals shall be binding upon all prospective proposers.

**2.2.6.4** Such changes that are issued after the receipt of proposals, but prior to award shall be binding upon all parties that have submitted proposals; however, such parties shall be allowed to reject such changes by, within 5 days of receipt of such written

notice, withdrawing his/her proposal. Such withdrawal must be delivered, in writing, to the PO within the 5-day deadline period.

## **2.3 Proposal Preparation, Submission and Receipt by TPS:**

**2.3.1 Required Forms:** All required forms furnished by TPS as a part of the RFP document issued shall, as instructed, be fully completed and submitted by the proposer. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the proposer must "edit" the form back to its original form (for example, signature lines must appear on the page the line was originally intended to be on).

**2.3.2 Manner of Submission:** The proposal submittal shall be submitted in the manner detailed within the RFP document. Failure to submit the proposal in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that proposal, and may, at the discretion of the PO, eliminate that proposer from consideration for award. [See HUD 5369 B §2]

**2.3.2.1 Proposal Submittal Binding Method:** It is preferable and recommended that the proposer bind the proposal submittal in such a manner that TPS can, if needed, remove the pages from the cover (i.e. 3-ring binder, etc.) to make copies then conveniently return the proposal submittal to its original condition.

**2.3.2.2 Cost Proposal (if applicable):** The proposed Fees shall be submitted by the proposer utilizing the fee submittal form and received by TPS in a separate, sealed envelope along with the proposal. Then envelope shall be labeled with: the Proposer's name, the solicitation number, the solicitation name, the due date, and "Fee Submission Form."

**2.3.2.2.1** The cost shall be a firm fixed price inclusive of all elements required to deliver the services, including but not limited to: employee costs and benefits, clerical support, supplies, materials, licensing, insurance, fuel surcharges, truck fees, franchise fees, etc. Please note that such cost is inclusive of all elements required to provide these services as specified herein and each fee proposed shall be fully "burdened" with profit and overhead costs.

**2.3.2.2.2** Authorization of Offeror: The Cost Proposal (Attachment B) must be signed by a representative of the Offeror who is legally authorized to enter into a contractual relationship in the name of the Offeror.

**2.3.2.3** Offers shall be enclosed in a package such as a sealed envelope or box 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 package. [HUD 5369 B §9]

**2.3.2.4** 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. [HUD 5369 B §9]

**2.3.2.5** **Submission Conditions:** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Proposers 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 TPS by the proposer, such may invalidate that proposal. If, after accepting such a proposal, TPS decides that any such entry has not changed the intent of the proposal that TPS intended to receive, TPS may accept the proposal and the proposal shall be considered by TPS as if those additional marks, notations or requirements were not entered on such. By accessing the noted Internet System and downloading these documents, each prospective proposer that does so is thereby agreeing to confirm all notices that TPS delivers to or makes available to him/her as instructed, and by submitting a proposal, the proposer is thereby agreeing to abide by all terms and conditions published herein and by addendum pertaining to this RFP.

**2.3.2.6** **Submission Responsibilities:** It shall be the responsibility of each proposer to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by TPS, including the RFP document, the Attachments to the RFP, and any addenda and required attachments submitted by the proposer. By virtue of completing, signing and submitting the completed documents, the



proposer is stating his/her agreement to comply with all conditions and requirements set forth within those documents. Written notice from the proposer not authorized in writing by the PO to exclude any of TPS requirements contained within the documents may cause that proposer to not be considered for award.

**2.3.3 Time for Receiving Proposals:** Proposals received prior to the time set as the deadline for the receipt by TPS of the proposal submittal shall be securely kept, unopened, by TPS. The PO, whose duty it is to open such proposals, will decide when the specified time has arrived. No proposal received after the designated deadline shall be considered, except as detailed as detailed below; or if the bid response, modification, or withdrawal would have been timely but for the action or inaction of TPS personnel. When deemed as late, a bid response, modification, or withdrawal shall be marked as "late", remain sealed and shall be retained in the bid file

**2.3.3.1** Proposers are cautioned that any proposal submittal that may be time-stamped as being received by TPS after the exact time set as the deadline for the receiving of proposals shall be returned unopened to the proposer. Any such proposals inadvertently opened shall not be considered, but shall be ruled to be invalid. No responsibility will attach to TPS or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and identified.

**2.3.3.2** 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 –

**2.3.3.2.1** 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);

**2.3.3.2.2** Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by TPS that the late receipt was due solely to mishandling by TPS after receipt at TPS;

**2.3.3.2.3** 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

**2.3.3.2.4** Is the only offer received.

- 2.3.3.3** Any modification of an offer, except a modification resulting from TPS'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.
- 2.3.3.4** A modification resulting from TPS'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 TPS after receipt at TPS.
- 2.3.3.5** 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.
- 2.3.3.6** The only acceptable evidence to establish the time of receipt at TPS is the time/date stamp of TPS on the offer wrapper or other documentary evidence of receipt maintained by TPS.
- 2.3.3.7** 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.
- 2.3.3.8** Notwithstanding paragraph 2.3.3.2 of this provision, a late modification of an otherwise successful offer that makes its

terms more favorable to TPS will be considered at any time it is received and may be accepted.

**2.3.3.9** If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by an 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.

[HUD 5369 B §6] Negligence on the part of the proposer in preparing his/her proposal confers no right of withdrawal or modification of his/her proposal after such proposal has been received and opened.

**2.3.4 No Public Opening of Proposals:** Pursuant to the competitive proposals or RFP process, proposals are not publicly opened, but are held secure until the submittal deadline has passed. The proposals are then opened in private by the PO (or his/her designee) and are, pursuant to the evaluation plan, examined for minimal responsiveness (i.e. minimum compliance with the requirements of the RFP). Persons other than TPS staff involved in this process are not allowed to be present during the opening, nor may they inspect the proposals until after award has been completed.

**2.3.5 Conflicting Conditions:** Any provisions detailed within any of the RFP documents which may be in conflict or inconsistent with any of the paragraphs in any of the other RFP documents, including attachments, shall be void to the extent of any such conflict or inconsistency. Further, as stated within Section 1.1.1 of this ITP, unless otherwise specified within the RFP or contract documents, in the event that any provision in any document listed herein conflicts with any provision within this ITP, the provision in the RFP or contract document shall govern.

**2.3.6 Interpretations:** No official oral interpretation can be made to any proposer as to the meaning of any instruction, condition, specifications drawing (if any), or any other document issued pertaining to this RFP. Every request for an official interpretation shall be made by the prospective proposer, in writing, pursuant to the schedule set within the RFP document issued and as directed by TPS. Official interpretations will be issued in the form of addenda, which will be available to each proposer; but it shall be the prospective proposer's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the RFP documents and the proposed contract with the successful proposer, and all proposers shall be bound by such addenda, whether or not received by the prospective or successful proposer(s). 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 off offerors. [HUD 5369 B §4]

## **2.4 Exceptions to Specifications:**

**2.4.1** A proposer may take exception to any of the proposal documents or any part of the information contained therein, by submitting, in writing to the PO, **at least 10 days prior to the proposal deadline**, a complete and specific explanation as to what he/she is taking exception to. Proposed alternate documents or information must also be included. A response by TPS will be issued in writing within 5 days of receipt of such exception request. TPS reserves the right to agree with the prospective proposer and issue a revision to the applicable RFP requirements, or may reject the prospective proposer's request.

**2.4.2** When taking exception, prospective proposers must propose services that meet the requirements of the RFP documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-proposal conference (if scheduled). All verbal instructions issued by TPS officers not already listed within the RFP documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.

## **2.5 Lump Sum Cost Breakdown (LSCB):**

**2.5.1** TPS reserves the right to, at any time, request and receive from any or all proposers a LSCB of any or all of the costs proposed. The proposal documents constitute an outline of the work to be completed by the proposer. 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 proposer in order to comply with the proposal documents in their present form, whether or not indicated in the approximate quantities or pertaining to the items of work as listed.

**2.5.1.1** The purpose of this LSCB will serve TPS in two distinct areas:

**2.5.1.1.1 Prior to award of proposals:** TPS may request a LSCB for any or all items reflected within the RFP document as "lump sum" for the purpose of determining an unbalanced cost proposal. The PO, using acceptable methods dictated by the industry, shall conduct the analysis.

**2.5.1.1.2 After award:** TPS may request a LSCB for any or all items reflected within the RFP document as "lump sum" for the purpose of making partial payments to the successful proposer.

2.5.1.1.3 Under no circumstances, may any cost item reflected as “lump sum” be increased/decreased as a result of the LSCB analysis.

### 3.0 PROPOSAL EVALUATION:

3.1 **Proposal Opening Results:** It is understood by all proposers/prospective proposers that the proposals received are not publicly opened and the results will typically not be a matter of public record until TPS has concluded all evaluations, has chosen a final top-rated proposer, has completed the award and is ready to issue such results. When TPS issues such notice, TPS will inform all proposers as to who was awarded the contract and the dollar amount of the contract.

3.2 **Initial Evaluation for Responsiveness:** Each proposal received will first be evaluated for responsiveness (e.g., meets the minimum of the published requirements). TPS reserves the right to reject any proposals deemed by TPS not minimally responsive. Each proposal will be evaluated on the factors described in the solicitation. TPS intends to award a contract to the Proposer(s) with the highest ranking scores and whose qualifications and fee proposals TPS determines is most advantageous to TPS.

3.1.1 All proposal documents submitted by the proposers are not necessarily a matter of public record and as a matter of normal course, the proposals submitted by each proposer will not, until after award has been completed, be available to be viewed by any interested parties except as approved by TPS’s Legal Counsel (i.e. a proposer will not, prior to completion of award, be allowed to challenge an apparent top-rated proposer by inspecting the proposal that the apparent top-rated proposer submitted). TPS shall, however, upon request, verify that the proposal documents submitted are/were acceptable.

3.3 **Evaluation Committee:** TPS anticipates that it will select a minimum of a three-person committee to evaluate each of the responsive proposals submitted in response to this RFP. PLEASE NOTE: No proposer shall be informed at any time during or after the RFP process as to the identity of any evaluation committee member. If, by chance, a proposer does become aware of the identity of such person(s), he/she SHALL NOT make any attempt to contact or discuss with such person anything related to this RFP. The designated PO is the only person at TPS that the proposers shall contact pertaining to this RFP. Failure to abide by this requirement may (and most likely will) cause such proposer(s) to be eliminated from consideration for award.

### **3.4 Mistake in Proposal Submitted:**

**3.4.1** A request for withdrawal of a proposal due to a purported error need not be considered by TPS unless the same is filed in writing by the proposer within 48 hours after the proposal deadline (proposers may of their own volition withdraw a proposal prior to the submittal deadline). Any such request shall contain a full explanation of any purported error and shall, if requested by TPS, be supported by the original calculations on which the proposal was computed, together with a certification and notarization thereon that such computation is the original and prepared by the proposer or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as TPS retains the right to accept or reject any proposal withdrawal for a mistake.

**3.4.2** Unless otherwise prohibited within the RFP documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at TPS's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to the PO, for his/her review. This mistake must be corrected before the issuance of contract documents. If a bidder appears to have made a mistake, the Contracting Officer should immediately notify a bidder of any apparent mistake in his/her bid and request verification of the bid as submitted.

**3.5 Irregular Proposal Submittal:** A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at TPS's discretion, be cause for rejection:

**3.5.1** If the forms furnished by TPS are not used or are altered or if the proposed costs are not submitted as required and where provided.

**3.5.2** If all requested completed attachments do not accompany the proposal submitted.

**3.5.3** If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the proposer submitting the same a competitive advantage over other proposers.

**3.5.4** If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

### **3.6 Evaluation Method:**

**3.6.1 Evaluation Packet for Proposals Deemed Responsive:** Internally, an evaluation packet will be prepared for each evaluator, including the following documents:

3.6.1.2 Instructions to Evaluators;

3.6.1.3 Proposal Tabulation Form;

3.6.1.4 Copy of all pertinent RFP documents.

**3.6.2 Evaluation:** The PO will evaluate and award points pertaining to the Proposed Fees and the Economic Inclusion Participation Factors. The appointed evaluation committee, independent of the PO or any other person at TPS, shall evaluate the responsive proposals submitted and award points pertaining to the other evaluation factors. Upon final completion of the proposal evaluation process, the evaluation committee will forward the completed evaluations to the PO.

**3.7 Evaluation Scoring:** Each evaluation factor will be scored on a zero to five scale. The scores will then be averaged for each evaluation factor and then the weighted average score for each evaluation factor will be combined to calculate the overall score.

Score	Description
5	Total Applicability/Excellent: The proposal exceeds all the requirements of the RFP and Specifications in a highly competent and superior manner.
4	Substantial Applicability/Above Average: The proposal meets all the requirements of the RFP and Specifications and, in some respects, exceeds them.
3	Average Applicability: The proposal adequately meets most of the requirements of the RFP and scope. It accomplishes many, but not all of the requirements stated in the RFP and specifications.
2	Limited Applicability/Below Average: The proposal meets some of the requirements of the RFP and scope but contains some deficiencies. The proposal accomplishes some, but not all of the purposes stated in the RFP and specifications.
1	Minimum Responsiveness/Poor: The proposal scarcely meets the requirements and contains many deficiencies. The required documentation is in many respects inadequate, methodologically unsound or scarcely accomplishes the purpose stated in the RFP and specifications.
0	Non-responsive: A zero value typically constitutes no response or an inability of the vendor to meet the minimum requirement as set forth in submitting the RFP criterion.

**3.7.1 Determination of Top-ranked Proposer:** Typically, the subjective points awarded by the evaluation committee will be combined with the objective points awarded by the PO to determine the final rankings. Contract negotiations may, at TPS's option, be conducted prior to or after the BOC approval.

**3.7.1.1 Ties:** In the case of a tie in points awarded, 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.”

**3.7.2 Restrictions:** All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on TPS evaluation committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on TPS evaluation committee.

**3.8 Award of Proposal(s):** The successful proposer shall be determined by the top-rated responsive and responsible proposer as determined by the evaluation process, provided his/her proposal is reasonable, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of TPS, to the best interests of TPS to accept the proposal. All proposers will be notified in a timely manner of the results of the evaluation after award has been completed.

**3.8.1** TPS may:

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

**3.8.2 Notice of Results of Evaluation:** If an award is completed, all proposers will receive by e-mail a Notice of Results of Evaluation. Such notice shall inform all proposers of:

- Which proposer received the award;
- Each proposer's right to a debriefing and to protest.

**3.8.3** TPS 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 –

- Have adequate financial resources to perform the contract, or the ability to obtain them;
- Have a satisfactory performance record;
- Have a satisfactory record of integrity and business ethics;
- Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- 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. [HUD 5369 B §5]



**3.8.4** Before an offer is considered for award, the offeror may be requested by TPS 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.

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

**3.8.6** **Potential "Competitive Range" or "Best and Finals" Negotiations:** TPS reserves the right to, as detailed within Section 7.2.N through Section 7.2.R of HUD Procurement Handbook 7460.8 REV 2, conduct a "Best and Finals" Negotiation, which may include oral interviews, with all firms deemed to be in the competitive range. Any and all interviews are at the sole discretion of TPS.

However, TPS 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

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

**3.8.8** Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract. [HUD 5369 B § 7]

### **3.9 Rejection of Proposals:**

**3.9.1** TPS reserves the right to, at any time during the proposal process, reject any or all proposals received. In the case of rejection of all proposals, TPS reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of TPS, the best interest of TPS will be promoted.

**3.9.2** Prospective proposers acknowledge by downloading and receiving the RFP documents and/or by submitting a proposal that the submission of a proposal to TPS is not a right by which to be awarded that proposal, but merely an offer by the prospective proposer to perform the requirements of the RFP documents in the event TPS decides to consider an award to that proposer.

- 3.10 Cancellation of Award:** TPS reserves the right to, without any liability, cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- 3.11 Disqualification of Proposers:** Any one or more of the following shall be considered as sufficient for the disqualification of a proposer and the rejection of his/her proposal:
- 3.11.1** Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as bidders or proposers for any future work of TPS until such participant shall have been reinstated as a qualified proposer or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
  - 3.11.2** More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s), unless such was specifically allowed by TPS within the proposal documents issued, including by addendum.
  - 3.11.3** Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
  - 3.11.4** Documented unsatisfactory performance record as shown by past work for TPS or with any other local, State or Federal agency, judged from the standpoint of workmanship and progress.
  - 3.11.5** Incomplete work, which in the judgment of TPS, might hinder or prevent prompt completion of additional work, if awarded.
  - 3.11.6** Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
  - 3.11.7** Failure to comply with any qualification requirement of TPS.
  - 3.11.8** Failure to list, if required, all subcontractors (if subcontractors are allowed by TPS) who will be employed by the successful proposer(s) to complete the work of the proposed contract.
  - 3.11.9** As required by the RFP documents, failure of the successful proposer to be properly licensed by the City of Cincinnati and/or Hamilton County, Ohio and/or the State of Ohio and/or to be insured by a general liability and/or worker's compensation policy.
  - 3.11.10** Any legal reason to be determined, in good faith, to be in the best interests of TPS.

**3.12 Burden of Proof:** If requested by TPS, it shall be the responsibility of the proposer(s) to furnish TPS with sufficient data or physical samples, within a specified time, so that TPS may determine if the goods or services offered conform to the Specifications.

**3.12.1 Right to Negotiate Final Fees:** TPS shall retain the right to negotiate the amount of fees that are paid to the successful proposer, meaning the fees proposed by the top-rated proposer may, at TPS's options, be the basis for the beginning of negotiations. Such negotiations shall begin after TPS has chosen a top-rated proposer. If TPS and such proposer can not arrive at a mutually agreed upon price or terms for the work to be performed, TPS shall retain the right to end such negotiations and begin negotiations with the next-rated proposer or cancel the solicitation in its entirety. TPS shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e. top-rated first, then next-rated following until a successful negotiation is reached).

#### **4.0 Right to Protest:**

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

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

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

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

**4.3.1** The alleged aggrieved protestor must file, in writing, to the PO the exact reason for the protest, attaching any supportive data. The protestor must state within the written protest document specifically (not by inference) what action by TPS or condition is being protested as inequitable, making, where appropriate specific reference to the RFP documents issued. The protest

document must also state the corrective action requested. Failure by the alleged aggrieved protestor to fully submit such information shall relieve TPS from any responsibility to consider the protest and take any corrective action.

**4.3.2** The written instrument containing the reason for the protest must be received by the PO within 10 days after the occurrence of any of the following:

**4.3.2.1** the deadline for receiving proposals;

**4.3.2.2** receipt of notification of the results of the evaluation or the award; or

**4.3.2.3** the alleged aggrieved protestor knows or should have known the facts.

**4.3.3** 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 proposal deadline). Protests received after these dates shall not be considered.

**4.3.4** The PO 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 protestor of the right of further administrative review. A copy of this written opinion and decision shall be forwarded to the CEO.

**4.3.5** The determination of TPS with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor. [HUD 5369 B §8]

**4.3.6** **Administrative Appeal:** If the alleged aggrieved protestor does not agree with the written opinion and decision issued by the PO, the alleged aggrieved protestor may, after receipt of the written opinion and decision issued by the PO request an administrative appeal hearing be granted (such request must be delivered in writing to the PO within 5 days of receipt of the written opinion and decision; failure to do so within such 5 days shall relieve TPS of any responsibility to consider such request). The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestor to comply shall automatically relieve TPS from accepting or acting on that request for administrative hearing:

**4.3.6.1** The alleged aggrieved protestor must file, in writing, his/her request for an administrative hearing, to the CEO, within 5 days of receipt of the written opinion and decision and failure to do so within such 5 days shall relieve TPS of any responsibility to consider such request.

- 4.3.6.2 The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.
- 4.3.6.3 It shall be within the administrative powers of the CEO to, after review of the request submitted, grant or deny any request for administrative appeal.
- 4.3.6.4 If the CEO, after complete review of the alleged aggrieved protestor'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 protestor. A decision rendered under this paragraph shall be made within 10 days after the receipt of the alleged aggrieved protestor's request for an administrative hearing. This decision shall be final without further administrative recourse.
- 4.3.6.5 If the CEO, after review of the alleged aggrieved protestor's written request, decides that the request merits further consideration, he/she shall forward the protestor's written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to TPS's Legal Counsel for consideration. TPS's Legal Counsel shall issue to the alleged aggrieved protestor a decision, in writing, within 10 days of his/her receipt of such documents.
- 4.3.5.5 Such written decision delivered to the alleged aggrieved protestor shall exhaust TPS internal protest and administrative appeal process available to the alleged aggrieved protestor.

## 5.0 Additional Considerations:

- 5.1 **Estimated Quantities:** Unless otherwise stated within the RFP documents, the quantities reflected within the RFP documents, to the best of TPS's knowledge, reflect projected consumption data. These quantities are not meant to infer or imply actual consumption figures or quantities that will be purchased by TPS under the finalized contract; but, pursuant to all RFP documents, these quantities will be used as calculation figures to determine the successful proposer.
- 5.2 **Lobbying Certification:** By proposing to do business with TPS or by doing business with TPS, each proposer certifies the following:
  - 5.2.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, 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 an 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 any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

- 5.2.2 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 any 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.
- 5.2.3 The successful proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- 5.2.4 This clause is a material representation of fact upon which reliance was placed when the award was made or entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

### 5.3 Contract Conditions:

- 5.3.1 **Contract Award Procedure:** If a contract is awarded pursuant to this RFP, the following detailed procedures will be followed:
  - 5.3.1.1 By completing, executing and submitting the Contract Award and Acceptance, the “proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by TPS, either in hard copy or on the noted System.”
- 5.3.2 **Contract Conditions:** The following provisions are considered mandatory conditions of any contract award made by TPS pursuant to this RFP:
  - 5.3.2.1 **Contract Form:** TPS will not execute a contract on the successful proposer's form of contract and contracts will only be executed on TPS’s form of contract and by submitting a proposal the successful proposer agrees to do so. See Attachment H for Professional Services Agreement General Terms and Conditions and Attachment A for Proposer’s Statement.
  - 5.3.2.2 Please note that TPS 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 RFP.

**5.4 Headings:** The headings, titles, and captions in this Attachment are inserted for convenience only and are in no way intended to describe, interpret, define, prioritize or limit the scope, extent, or intent of this Attachment or any provision herein.

Last Revision Date: 08/21/2020