



CINCINNATI METROPOLITAN HOUSING AUTHORITY

SOLICITATION NUMBER 2024-5816

REQUEST FOR QUOTATIONS FOR SMALL PURCHASE
FOR
Debt Collection Services

DATE ISSUED	October 4, 2024
NON-MANDATORY PRE-PROPOSAL CONFERENCE	Not Applicable
SITE VISIT/WALK THROUGH	Not Applicable
LAST DATE FOR QUESTIONS	Questions shall be submitted in writing no later than <u>11:00 AM</u> local time on October 17, 2024 to procurement@cintimha.com .
PROPOSAL SUBMITTAL RETURN & DEADLINE	<u>October 23, 2024 no later than 11:00 AM</u> local time by email to: procurement@cintimha.com
WHAT TO SUBMIT	Submit: 1 or more files for the proposal; 1 separate file with only the Fee Submittal Form, and 1 separate file with only the Contract Award and Acceptance Form. All submissions must be in .pdf or equivalent format. Photographs and links to attachments will not be accepted.

CMHA Reserves the right to modify this schedule at its discretion. Notification of changes will be made available to all interested parties via an email and/or by posting on CMHA's website.

THE RESPONSIBILITY FOR SUBMITTING A RESPONSE TO THIS REQUEST AT THE DESIGNATED OFFICE OF CINCINNATI METROPOLITAN HOUSING AUTHORITY ON OR BEFORE THE STATED TIME AND DATE WILL BE SOLELY AND STRICTLY THE RESPONSIBILITY OF THE OFFEROR. THE AUTHORITY WILL IN NO WAY BE RESPONSIBLE FOR DELAYS CAUSED BY THE DELIVERY MANNER CHOSEN BY THE RESPONDENT OR CAUSED BY ANY OTHER OCCURRENCE.



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Table of Attachments		
Attachment	Description	What to do with it
A	Scope of Work	Retain for your records
B	General Terms and Conditions	Retain for your records
C	Quote Packet	Complete and return

1.0 REQUEST FOR QUOTATIONS FOR SMALL PURCHASE

Cincinnati Metropolitan Housing Authority (CMHA) hereby solicits and requests quotes from qualified Collection Agencies hereby referred to as “Agencies”, to provide Collection Services. This request for quotation is not an offer to buy and should not be assumed as such. The award will be made to the most responsive, responsible Agencies who submit the most technically acceptable proposal.

CMHA is a metropolitan housing authority organized and existing under Ohio Revised Code §3735.27, et seq., and is governed by the U.S. Housing Act of 1937, as amended, and subject to regulations under Title 2 and Title 24 of the Code of Federal Regulations.

CMHA reserves the right to award the contract to multiple Offerors.

It shall be clearly understood that all services requested in this QSP are on an “as needed basis” and that the values referred to in response to this QSP in no way constitute a guarantee of the level of effort that may be requested of the successful Offeror(s), or guarantee a certain value.

2.0 ECONOMIC INCLUSION

The Authority has, within the terms of its procurement policy, established the following goals with regards to Economic Inclusion and encourages participation by MBE/WBE and Section 3 Business concerns.

- Minority-Owned Business Enterprise:
 - General Construction: 20%
 - Professional Services: 12%
 - Material/Supplies: 5%
- Women-Owned Business Enterprise goal 5%
- Section 3: meet or exceed applicable benchmarks set by HUD

In furtherance of Section 3 initiatives, any hiring or training opportunities that are generated through this contract agreement should be provided to Section 3 Business Concerns or Section 3 Workers to the greatest extent feasible.

For any questions related to economic inclusion, please email section3@cintimha.com.



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3.0 ADDENDUM

All questions regarding the QSP and requirements must be submitted in writing to procurement@cintimha.com prior to the date on the cover page. Questions will be answered in an addendum that will be emailed to all companies on our proposers' list and/or posted to our website.

4.0 QUOTE FORMAT

All quotations should be submitted using the Attachment C Quote Packet.

5.0 AWARD CRITERIA

Award shall be made to the responsive and responsible agency(s) that submits the best value to the Authority using price and other factors listed below as determined by a committee of Authority employees. Factors which will be considered include: fees, relevant experience, project management ability, and technical capabilities.

The following evaluation criteria will be utilized to evaluate each proposal:

- 5 = Excellent
- 4 = Above Average
- 3 = Average
- 2 = Below Average
- 1 = Poor
- 0 = Non-Responsive

NO	POINTS	WEIGHTED AVERAGE	FACTOR DESCRIPTION
1	0-5	40%	The PROPOSED COSTS to provide the services requested
2	0-5	30%	Relevant Experience: Firm's experience in the operation of projects of this or greater scope. The evaluation of this criterion will be based upon Professional References and the company's one-page description of the company's related experience. References should be applicable to the type of work requested in this solicitation.
3	0-5	30%	Project Management Ability/Quality Assurance: Describe how projects with multiple sites and employees will be managed and how quality will be ensured.
		100%	Total Points



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6.0 CONTRACT

The Authority will not execute a contract on the successful proposer's form of contract. See *General Terms and Conditions* and *Contract Acceptance and Award*. By submitting a response, the successful proposer agrees to the terms in this QSP and the attachments.

All contract documents, including any agreements supplied by the Agencies shall be reviewed by the Procurement Officer and Contracting Officer prior to execution. Please note that contracts are limited to \$75,000.00 over the term of the contract. The term shall not exceed three years.

7.0 RIGHT TO REJECT QUOTES

CMHA reserves the right to reject any or all quotes, to waive technicalities, and to accept any quote deemed to be in its best interest. CMHA also reserves the right to seek additional or new quotes and to waive informalities and minor inequities in quotes received.

8.0 PUBLIC RECORD

All bids/proposals submitted to CMHA 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 agency, including citations from the Ohio Public Records Law or the Sunshine Act for the exemptions. Also, the agency shall submit one hard copy and 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.

9.0 GOLD PERFORMANCE STANDARDS

In 2012, the Authority implemented its motto “Being an Asset to Hamilton County” in addition to establishing Gold Performance Standards which consist of the principles and values by which the Agency performs and how our partners, vendors, agencies and consultants are measured. The Gold Performance Standards are:

<i>Respect</i>	<i>Timely</i>	<i>Exceptional</i>	<i>Initiative</i>
<i>Excellent</i>	<i>Quality</i>	<i>Accurate</i>	<i>Integrity</i>
<i>Value</i>	<i>Creativity</i>	<i>Accountability</i>	<i>Professionalism</i>

It is the Authority’s intent to procure services from an agency that shares these standards and can clearly demonstrate what they can bring to this project that no other planner can offer.



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The agency's proposal and overall presentation will be a direct reflection of their understanding of the Authority's Gold Performance Standards, i.e. quality, creativity and professionalism that the Authority may expect of the agency as evaluated in the Gold Performance Standard Evaluation Factor.



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ATTACHMENT A: SCOPE OF WORK

1.0 Introduction

CMHA (or the “Authority”) is seeking proposals from qualified, professional agencies that will provide the Authority with Debt Collection Services.

The Authority seeks a formal response from agencies as to qualifications and experience to perform assignments within the Scope of Work. The agencies selected by the Authority will be required to follow the Authority policies as specified in this solicitation and the Performance Based Contract to provide debt collection services.

2.0 Services to be Provided

- 2.1 Agencies shall collect amounts owed on past due accounts, including former tenant accounts and vendor accounts.
- 2.2 Services should include, but not be limited to, direct collection efforts, including the following measures: letters to debtors which fully comport with the requirements of the Fair Debt Collection Practices Act (“FDCPA”), skip tracing, and asset checks. Litigation efforts to include referral to legal counsel when appropriate; wage garnishments; pursuit of judgments; and post-judgment collection.
- 2.3 Agencies will promptly undertake the collection of all accounts referred by the Authority without regard to the amounts to achieve a maximal recovery of debts. Such procedures are to include, but not be limited to a reasonable number of telephone calls and mail efforts. Skip tracing efforts must be used, both in state and out of state and documented. However, the agencies shall have no authority to file suit on any account referred by the Authority absent expressed written request from the Authority.
- 2.4 CMHA may or may not have already obtained judgments on the accounts.
- 2.5 CMHA does not warrant that it will provide any certain amount of accounts receivable to Agencies.
- 2.6 General Requirements
 - 2.6.1 The agencies shall conduct itself so as not to diminish the goodwill and reputation of the Authority and to abide by all applicable laws, rules and regulations.



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- 2.6.2 Agencies shall maintain a professional and courteous demeanor in conducting collections and shall assist the debtors in understanding the proceedings relating to collection.
- 2.6.3 The agencies shall treat all information which it obtains by its performance under the contract as private/confidential information as provided under State and Federal Law.
- 2.6.4 The agencies shall be subject to all applicable Federal, State and local laws, rules and regulations. Agencies will adhere to all state, federal, and applicable laws governing collection services including all guidelines established by the Fair Debt Collection Practices, Consumer Credit Protection Act, and the Ohio Consumer Sales Practices Act, or any similar consumer oriented acts of the state or federal government.

3.0 Referrals

- 3.1 The agencies shall acknowledge receipt of any collection referral from the Authority within (5) five working days by written notification of receipt. The agency agrees that should any question of policy or law be encountered, it will contact CMHA for guidance. Authority for compromise or other settlement of claims is retained exclusively by CMHA through its designee(s).
- 3.2 Agencies will suspend action either temporarily or permanently without compensation on any account referred to collection upon notification by the Authority. The Authority reserves the right to reduce the amount being collected on an account without penalty.
- 3.3 Agencies will surrender and return to the Authority any account that has remained inactive for the period of twelve (12) months.
- 3.4 Agencies will return the debt to the Authority if debt is determined to be uncollectible.

4.0 Records

- 4.1 The agencies shall agree to maintain complete and accurate records, complete monthly reports in an understandable and legible electronic format separated by debtor type (tenant, landlord, other) which shall include the name of the debtor, Authority Claim number, or substitute identifying information, date of referral, debt referral amount, and any payments, including date received, and a summary of the collection effort. Agencies must provide the Authority a sample



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of such a report as part of their proposal. If the collection is to be escalated to legal counsel, the Agency must get approval from CMHA and separate reporting to be provided on the escalated book which must include the date of the escalation and the name and address of the agency's attorney of record.

- 4.2 Agencies will furnish the Authority monthly a report listing all new, bad address and changed addresses of accounts referred for collection. This report must include changes in name, social security number, address and phone number.
- 4.3 Agencies will provide the Authority, on a monthly basis, a status report for all accounts.
- 4.4 Agencies will report the past due amount to at least one of the three major credit bureaus for the period of time the delinquent account is with them on a monthly basis.
- 4.5 Agencies will provide the Authority with the following status reports in the time frame as listed below. Separate reports must be provided for former tenant accounts and for vendor accounts.
 - A. Performance analysis (breakdown by age) - Monthly
 - B. Inventory of accounts referred (should include date referred) - Monthly
 - C. Account activity (status of accounts referred) - Monthly
 - D. Closing of accounts with explanation of why it was closed and whether escalation is recommended - Monthly
 - E. Acknowledgment of new accounts - As accounts are received.
 - F. Bad address listing - Monthly
 - G. Changed or new address listing - Monthly
- 4.6 All records will be available for audit by the Authority. All records must be maintained for the contract period and made available for said audits for a minimum of five (5) years.
- 4.7 Agencies shall provide on-line inquiry capability, if requested.
- 4.8 Agencies shall establish and maintain separate receivable accounts for different account types as directed by the Authority and provide separate monthly invoices and reports for each receivables account.



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- 4.9 Agencies shall maintain appropriate accounting records, including auditable financial records for a minimum of five (5) years from the end of the contract period.

5.0 Fees and Expenses

- 5.1 Monies which have been collected on behalf of the Authority will be transmitted by a method to be determined with each successful Proposer. Payments must be separated by debtor type.
- 5.2 The Agency shall maintain reasonable records of its expenses under this agreement and shall allow access to those records by the Authority upon request.
- 5.3 Agencies shall remit in full to the Authority the net total of all funds collected less the collection fees owed to the agency and less any by the tenth (10th) day of each month. Agencies will provide separate payments as well as separate accounting statements for all payments received and credited during the billing period for each account type. Each statement/invoice must include debtor's name, account number, and date payment was received as well as the amount paid. Agencies must alter the statement if necessary to ensure compliance with federal regulation in respect to proper posting of payments and/or per the request of the Authority. Agencies must calculate daily interest accrual to ensure total payment of outstanding balance by debtor. Debtor payments must be credited as follows:

Vendor Accounts	Tenant Accounts
1. Collection Costs	1. Collection Costs
2. Late Charges	2. Principal
3. Interest	3. Interest
4. Principal	4. Late Charges

6.0 General Requirements

- 6.1 After the expiration of a resulting contract between the Agencies and the Authority, the Agency agrees to complete all collections referred by the Authority during the term of the contract at the negotiated rates. Agency may also be asked to return files at the end of their contract and to cease collection efforts.
- 6.2 Agencies shall provide the Authority timely copies of any pleadings in matters escalated to an attorney which result in filing of any judicial process.



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- 6.3** All collection referrals to the agencies from the Authority are subject to the provisions of the initial contract without the need for a new contract or agreement for each assignment. The agency agrees to abide by all policies of the Authority which have been communicated in writing from it to the agency. The Authority reserves the right to audit its accounts with the agencies upon 24 hour notice.
- 6.4** Agencies shall report balances, payment activity and paid in full status to the national credit bureau(s) on all accounts and will be responsible for updating all account information to the credit bureau. They shall use an account number as identified by the Authority for the reporting purposes to the credit bureau(s). If the Authority has identified that it is deemed appropriate to update any information on the credit bureau(s) the Agency shall perform the necessary notification to the credit reporting agencies and shall confirm the update/change request back to the Authority.
- 6.5** Litigation escalation must be approved by the Authority's General Counsel.
- 6.6** Services will be provided exclusively by Agencies employees and the referral of any Account to a third party, without the Authority's prior written authorization, is expressly prohibited.
- 6.7** The transfer of accounts to another agency/company for collections or for litigation is considered subcontracting. Use of a letter vendor or scrub/skip trace vendors are also considered subcontracting.
- 6.8** Agency shall not negotiate to reduce amounts owed by borrowers in order to settle on any outstanding balance on debtors account nor offer a waiver of any penalty charge or assess collection fees without written approval from the Authority. All requests for special considerations must be provided to the Authority in writing.
- 6.9** Agencies will provide a toll-free (voice) number for contact by debtors and Authority.

 - 6.9.1** If agency does not have a toll-free number, they should have the ability for CMHA former tenants to access them through a telephone.



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7.0 Pool of Bad Debt Collection Agencies

- 7.1 The Authority intends to create an inventory (or “pool”) of Agencies to provide Collection Services. The Pool will consist of various Agencies which will be available on an as-needed basis to provide services as requested by the Authority and the actual number of participants chosen will depend on the number of qualified proposals received. Selection as a participant of the Pool is not a guaranty of the type or amount of assignments for which a participant may be selected as there will be no guaranteed minimum or maximum amount of work awarded.
- 7.2 Proposers selected to participate in the Pool will be assigned work at the discretion of the Authority taking into consideration the quality of work, availability, manpower, timelines and other items of importance. The Authority will also determine the number of accounts any Agency will be assigned at any given time or duration. Agencies selected will serve in the Pool for a period of one (1) year with the option, at the Authority’s sole discretion, to extend the contract for up to an additional 4 years for a maximum total of 5 years.

8.0 The Authority’s Motto and Gold Performance Standards

In 2012, the Authority implemented its motto “Being an Asset to Hamilton County” in addition to establishing Gold Performance Standards which consist of the principles and values by which the Agency performs and how our partners, vendors, agencies and consultants are measured. The Gold Performance Standards are:

<i>Respect</i>	<i>Timely</i>	<i>Exceptional</i>	<i>Initiative</i>
<i>Excellent</i>	<i>Quality</i>	<i>Accurate</i>	<i>Integrity</i>
<i>Value</i>	<i>Creativity</i>	<i>Accountability</i>	<i>Professionalism</i>

It is the Authority’s intent that the agency will also adhere to these standards.



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Attachment B

CINCINNATI METROPOLITAN HOUSING AUTHORITY *GENERAL TERMS AND CONDITIONS*

1. **Purpose:** This document sets out the general terms and conditions of the relationship between Agency and the Cincinnati Metropolitan Housing Authority (CMHA) and Touchstone Property Services (TPS). When CMHA is used in the rest of this Exhibit, both CMHA and TPS are included unless noted otherwise.

2. **Contract Term:** This Agreement shall become effective upon CMHA issuing a notice of contract commencement to Agency and shall remain in effect for the term set forth in Attachment A – Scope of Work and the Contract Acceptance and Award, with the option to renew at CMHA’s sole discretion prior to the expiration of this Agreement. However, at no time may the term of this Agreement exceed five years. The Contract shall begin upon the delivery of a Notice of Contract Commencement by CMHA to the Agency. This Notice may be delivered in the form of a letter, copy of signed contract or contract acknowledgement.
 - 2.1. **Assignment of Personnel:** CMHA shall retain the right to demand and receive a change in personnel assigned to the work if CMHA believes that such change is in the best interest of CMHA and the completion of the contracted work.

 - 2.2. **Responsibility for Subagencys:** All requirements for the Prime Agency shall also apply to any and all subagencys hired by the Agency. It is the Agency’s responsibility to ensure the compliance by the subagencys. At all times the Agency remains liable to the Authority for the performance and compliance of his/her subagencys.

 - 2.3. **Unauthorized Sub-Contracting Prohibited:** The Agency shall not assign any right, nor delegate any duty for the work proposed pursuant to this contract (including, but not limited to, selling or transferring the contract) without the prior written consent of CMHA Procurement staff. Any purported assignment of interest or delegation of duty, without the prior written consent of CMHA shall be void and may result in the cancellation of the contract with CMHA, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract.

 - 2.4. **Termination:** It shall be within CMHA’s sole discretion to terminate this agreement for cause. Upon discovery of a contract deficiency, it is CMHA’s general policy to give one verbal notification to the agency to cure the deficiency. A second notification of deficiency shall be delivered to the agency in writing and will clearly state that, if required, a third notification will result in termination. Termination may also occur without prior notifications, depending on the deficiencies.

 - 2.5. **Contract Service Standards/ Government Standards:** It is the responsibility of the prospective Agency to ensure that all items and services proposed conform to all local,



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State and Federal laws concerning safety (i.e., OSHA) and environmental control (i.e., EPA) and any other enacted ordinance, code, law or regulation. The prospective Agency shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the prospective Agency for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.

- 2.6. **Public Records:** All bids/proposals submitted to CMHA 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 prospective Agency, including citations from the Ohio Public Records Law or the Sunshine Act for the exemptions. Also, the prospective Agency shall submit two copies of its proposal and other submissions, one of 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.
3. **Scope of Services and Duties:** Agency is engaged to provide CMHA with products and/or services as described in the Scope of Work as may be amended by a supplemental agreement and express written consent of both Parties. Agency will diligently provide products or services reasonably required to represent CMHA in the matters described, and will take all reasonable steps to keep CMHA informed of progress and to respond to CMHA's inquiries. CMHA will advise Agency of relevant facts and reasonably cooperate with Agency.
4. **Mandatory HUD Terms:** Parties acknowledge and agree that HUD terms (Table 1, Form *HUD-5370-C General Conditions for Non-Construction Contracts Section I and/or Section II if applicable*) contain the mandatory terms prescribed by the United States Department of Housing and Urban Development and that said terms are incorporated into this Agreement and may not be modified or amended. Any term hereinafter, including without limitation any provisions contained in Agency's Solicitation Response, that conflict with the terms set forth by HUD is void and unenforceable.

HUD Form 5370-C Section 1-5 is clarified by 2 CFR 200.315, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards (F), and 37 CFR Part 401. Rights in Data refer to data and records which are the products produced under the contract and the only part in which CMHA has ownership rights. CMHA does not have rights in the existing software systems of the agency.

5. **Mandatory Housing Authority Terms:** Parties acknowledge and agree that these *General Terms and Conditions* contain mandatory terms as set-forth by CMHA and said terms shall not be modified or amended without the express written approval of CMHA's Contracting Officer and without such approval the terms as forth in these *General Terms and Conditions* are in full force and effect. Any term(s) hereinafter, including without limitation any provisions contained in Agency's Proposal that conflict with the terms as set forth in *these General Terms and Conditions* is void and unenforceable. Any Provision(s) contained within these *General Terms and Conditions* that is similar to a Provision(s) or has the same or similar heading of any Provision(s) of *Form HUD-5370-C General Conditions for*



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Non-Construction Contracts Section I (and Section II) shall be considered supplemental provisions and are binding. Any Conflict in the language is unintentional and the HUD Provision(s) will be applicable.

6. Subject to Appropriation of Funds: CMHA's funds are contingent upon the availability of appropriations by the United States Congress and the United States Department of Housing and Urban Development. If the United States Congress and/or the United States Department of Housing and Urban Development fail at any time to continue funding for the payments or obligation due hereunder, the Work under this Agreement that is affected by the lack of funding will terminate and CMHA will have no further obligation to make payments and will be released from its obligations on the date funding expires.

6.1. CMHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to CMHA, if:

6.1.1. funding is not available;

6.1.2. legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

6.1.3. CMHA's requirements in good faith change after award of the contract.

7. Disputed Billings (Charges):

7.1. Procedures: In addition to the procedures detailed within Clause No. 7 of Attachment G-1, Form HUD-5370-C, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that CMHA disputes any portion of its billing(s), CMHA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

7.1.1. CMHA's representative shall, within 15 days after CMHA's receipt of such billing, formally notify the agency'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 agency's response, within 10 days after such notification is given, the CO and the agency's representative shall meet to discuss the matter and attempt to arrive at a resolution.

7.1.3. If the CO and the agency's representative are unable to resolve the dispute through such discussion within 10 days, CMHA shall, within 10 days thereafter, either:

7.1.3.1. pay the disputed charges and reserve the right to submit the matter to mediation, arbitration, or the appropriate court in Hamilton County, Ohio;



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7.1.3.2. not pay the disputed charge and submit the matter to mediation, arbitration, or the appropriate court in Hamilton County, Ohio;

7.1.3.3. not pay the disputed charge and allow the Agency to submit the matter either to mediation, arbitration, or the appropriate court in Hamilton County, Ohio.

7.1.4. The decision from arbitration will be binding upon both parties. If the decision is averse to CMHA, CMHA shall pay CMHA's receipt of the decision. If the decision is in favor of CMHA, the agency will either:

7.1.4.1. clear the amount which is ordered from CMHA account;
or

7.1.4.2. repay to CMHA the amount ordered.

7.1.4.3. Either option shall be completed within 10 days after the agency's receipt of the arbitrator's decision.

8. **Warranties and Representations:** Agency represents and warrants that its services provided for under the terms of this Agreement will be of good quality and consistent with the professional skill and care ordinarily provided by professionals performing the same or similar service and such services and materials shall be provided in accordance with generally accepted industry standards. Additionally, Agency represents and warrants the following:

8.1. Agency has the right to enter into this Agreement.

8.2. All services provided for under this Agreement are provided in accordance with the sound professional standards and the requirements of this Agreement and without any material defect.

8.3. No services or materials provided for by Agency under this Agreement will infringe upon the intellectual property rights of any third party.

8.4. All services provided for hereunder are merchantable and fit for the particular purpose described in this Agreement.

8.5. Agency will observe and abide by all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any license(s), permit(s) or the like required to provide the services and materials under this Agreement. Any fees submitted by the Agency reflect all costs required for compliance and to procure and provide such necessary licenses and permits.

8.6. Agency has not entered into any other contracts or employment relationships that restrict the Agency's ability to perform under this Agreement.



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If any services of Agency or any materials or products provided for by Agency fail to comply with these representations and/or warranties, and Agency is so notified in writing, Agency shall either 1) correct such failure with all due speed, or 2) shall refund the amount of compensation paid for the services, materials or products. Agency shall also indemnify CMHA for any direct damages and claims by third parties based upon a breach of these warranties.

9. **Non-Exclusivity:** This Agreement is a non-exclusive agreement. Either Party may perform or enter into agreements to perform the services and/or to provide any materials or products similar to those provided for herein so long as such agreements do not impede either Party's ability to perform under this Agreement.

10. **Indemnity:** Agency hereby agrees to protect, defend, indemnify and hold harmless CMHA, its officers, employees, agents, and Board of Commissions from and against all losses, liabilities and any and all claims of whatever kind, nature or description which may be asserted or claimed against CMHA indemnities which arise from any act or omission of Agency, its subagencys, directors, officers and employees or results from any breach or violation by Agency, its subagencys, directors, officers, or employees. Agency agrees, at its own expense, to pay the full cost thereof, including attorney's fees, if any, incurred by CMHA in defending any claim and shall pay any judgment rendered, with respect to the subject of the indemnity contained herein as well as any allegation of libel, slander, invasion of privacy, any failure to obtain any necessary release, permission or clearance, or any other cause of action or claim arising out of materials and elements provided for by Agency under this Contract. Agency will be liable, at all times, for damages or destruction of Agency's equipment and materials, regardless of how such damage occurs. CMHA will be under no liability to reimburse Agency for any such loss. If Agency insures its equipment and material against physical loss of damage, then Agency agrees to secure, if required in such insurance, a waiver of subrogation in favor of CMHA.

Agency will also indemnify CMHA and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any copyright, patent, trade secret, or similar intellectual property right based upon CMHA's proper use of any products or supplies under this Contract. This obligation of indemnification will not apply where CMHA has modified or misused the products or supplies and the claim of infringement is based upon the modification or misuse. CMHA agrees to give Agency notice of any such claim as soon as reasonably practicable and to give Agency the authority to settle or otherwise defend any such claim upon consultation with and approval by CMHA's General Counsel. If a successful claim of infringement is made, or if Agency reasonably believes that an infringement claim that is pending may succeed, Agency shall take one of the following four actions:

- 10.1. Modify the service(s), material(s) and/or product(s) so that the service(s), materials(s), and/or product(s) are no longer infringing.

- 10.2. Replace material(s) and/or product(s) with an equivalent or better item.



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- 10.3. Acquire the right for CMHA to use the infringing service(s), material(s) and/or product(s) as intended; or
- 10.4. Cease the related service(s) and/or remove the material(s) and/or product(s) and refund any amount CMHA paid for the service(s), material(s) and/or products(s) that required the availability of the infringing material(s) and/or product(s) for it to be useful to CMHA.

Nothing contained in this provision shall be construed to limit any indemnity obligations of Agency as set forth within the provisions of the Contract Documents.

It is agreed and understood that in no event shall any CMHA official, officer, employee, or agent be held personally liable or responsible for any covenant or agreement whether expressed or implied.

11. Insurance: Agency shall obtain and maintain during the performance under this Agreement the following insurance and the amount of such coverage shall be in an amount to cover all indemnity obligations and shall include, but not necessarily be limited to, the following:

11.1. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than: \$1,000,000 each occurrence; \$2,000,000 general aggregate; \$50,000 damage to premises and fire damage; and \$5,000 medical expenses for any one person.

11.1.1. The Authority and its affiliates must be named as an Additional Insured and as the Certificate Holder.

11.1.2. Commercial General Liability Insurance shall cover premises operations, fire damage, independent agencies, products and completed operations, blanket contractual liability, personal injury, and advertising liability.

11.1.3. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the Agency shall immediately obtain additional insurance to restore the full aggregate limit and furnish to CMHA a certificate of insurance showing compliance with this provision.

11.2. Professional liability and/or “errors and omissions” coverage with a limit not less than \$1,000,000.

11.2.1. This is required for vendors who render observational services to the Authority such as appraisers, inspectors, attorneys, engineers, or consultants.

11.2.2. The coverage shall be not less than \$1,000,000 each occurrence and \$1,000,000 general aggregate.

11.2.3. The Authority and its affiliates must be named as an Additional Insured and be a Certificate Holder.

11.2.4. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the Agency shall immediately obtain additional insurance to restore the full aggregate limit and furnish to CMHA a certificate of insurance showing compliance with this provision.

11.3. Automobile Liability Insurance with CMHA named as an additional insured and as the Certificate Holder with minimum limits as follows: \$1,000,000 combined single limit;



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- \$50,000/\$100,000 for vehicles utilized during the contract if such vehicles are not owned by the Agency or any agent, owner, or employee of the Agency (i.e., rental vehicles); \$5,000 medical pay.
- 11.3.1.** This is required of any agency who will be doing hands on work at the Authority properties.
- 11.4. Workers' Compensation Insurance** as required by state statute and **Employer's Liability Insurance** covering all of Agency's employees acting within the course and scope of this Contract.
- 11.4.1.** Worker's Compensation is required for any agency made up of more than one person.
- 11.4.2.** Employer's Liability Insurance must cover all of Agency's employees acting within the course and scope of this Contract. Employer's Liability limit is \$500,000 bodily injury for each accident, \$500,000 bodily injury by disease for each employee, and \$500,000 bodily injury disease aggregate. The Authority and its affiliates must be a Certificate Holder.
- 11.5.** Excess Liability Insurance (Umbrella Policy): may compensate for a deficiency in general liability or automobile insurance coverage limits.
- 11.6.** The coverages provided to CMHA shall be primary and not contributing to or in excess of any existing CMHA insurance coverages.
- 11.7.** The Insurance shall contain provisions preventing cancellation or non-renewal without at least 45 days' notice to CMHA and stating that the carrier will waive all rights of recovery, under subrogation or otherwise, against CMHA, its office, agents, employees or Board of Commissioners.
- 11.8.** Agency shall provide certificates evidencing the coverage required under this Provision of this Agreement to CMHA upon execution of this Agreement and annually thereafter evidencing renewals thereof. At any time during the term of this Agreement, CMHA may request, in writing, and the Agency shall thereupon within 10 days supply to CMHA evidence satisfactory of compliance with the provision of this section.
- 11.8.1.** The Contract may be terminated if the insurance lapses.
- 11.9.** Provide evidence of deductibles. If awarded a contract, CMHA may require lower deductibles depending on the risk to the Agency.
- 11.10.** Coverage required of this Contract will be primary over any insurance or self-insurance carried by CMHA.



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12. Limitation of Liability: Notwithstanding any limitation provisions contained in the Contract Documents and materials incorporated by reference, the Parties Agree as follows:

12.1. In no event shall CMHA be liable for any indirect, incidental, or consequential loss or damage of any kind, including but not necessarily limited to lost profits, even if CMHA had been advised, knew or should have known of the possibility of such damages.

13. Amendments: No amendment or modification of this Agreement will be effective unless it is in writing and signed by both Parties. At no time shall an amendment or modification be effective that conflicts with any mandatory provisions set forth by HUD in Table 1, or *Form HUD-5370-C General Conditions for Non-Construction Contracts Section I (and Section II)*.

14. Publicity: Agency agrees to submit to CMHA all advertising and publicity related matter relating to this Agreement wherein CMHA's name is mentioned or language used from which the connection of CMHA's name may, in CMHA's judgment, be inferred or implied. Agency shall not publish or use such advertising and publicity matters without prior express written consent of CMHA.

15. Non-Waiver of Rights: If either party does not seek compensation for breach or insist upon strict performance of any provision of this Agreement, that Party is not prevented from seeking compensation or insisting upon strict performance for a future breach of the same or similar provision. Failure of CMHA to take any action or assert any right hereunder shall not be deemed a waiver of such right.

16. Remedies:

16.1. Actual Damages: Agency is liable to CMHA for all actual and direct damages caused by Agency's default. In the event Agency fails to provide services or material as provided for in the Contract Documents, CMHA may substitute the services and/or material from a third party. CMHA may recover the costs associated with acquiring substitute services and/or materials, less any expense or costs saved by Agency's default, from Agency.

16.2. Deduction of Damages from Contract Price: Upon prior written notice being issued to the Agency, CMHA may deduct all or any part of the damages resulting from Agency's default from any part of the price still due on this Agreement.

17. Agency Suspension: If Agency fails to perform any one of its obligations under the Contract Documents it will be in default and CMHA, at its sole discretion, may suspend rather than terminate this Agreement when CMHA believes that doing so would better serve its interest. In case of a suspension, the amount of compensation due to Agency will be determined in the same manner as provided for in the Termination for Convenience provision set forth in *Form HUD-5370-C General Conditions for Non-Construction Contracts Section I* less any damage to CMHA resulting from Agency's breach or other default.



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These General Terms and Conditions address the suspension of the contract. However, CMHA may suspend the agency in accordance with the Agency Suspension and Responsibility Standard Operating Procedure posted on CMHA's website.

18. Agency Responsibilities:

18.1. Agency shall perform national criminal history checks for Ohio, Indiana, and Kentucky, and 10-panel drug screening tests on all prospective employees performing work under this contract or coming onto a CMHA property and provide summaries of the results to the Authority if requested. The background check and drug screening shall be completed prior to agency or its employees performing work for CMHA. For the purposes of this section, the term "employees" includes agency. Prospective employees whose criminal background check discloses a misdemeanor or felony involving crimes of moral turpitude, sexual offenses or harm to persons or property shall not be employed to perform work under this contract. Agency is required to perform drug screening of all employees and to ensure acceptable test results. Criminal history and drug screening checks will be completed at the sole expense of the agency. Any employee of the Agency suspected of being under the influence of drugs and or alcohol will be reported to the appropriate personnel at CMHA and/or other local law enforcement. If the employee is determined to be under the influence of drugs or alcohol in any form or manner, or believed by proper authority to be dealing in illicit sale of alcohol or drugs they will be removed and shall not be allowed to return to any job site on the Authority's property. The Agency's contract may be suspended and/or terminated should such a situation occur or if the Agency fails to submit results pursuant to this section.

18.1.1. If CMHA requests additional drug screening, the test shall be performed within 24 hours of when the request is made to the agency and the summary shall be sent directly to CMHA from the testing facility. Testing by the agency of its employees is not acceptable; the testing must be completed by an independent testing facility.

18.1.2. Local union drug testing cards are acceptable as long as the strictest of the requirements of this contract and local union requirements are met. However, the Agency remains responsible for monitoring that drug testing is being completed and ensuring acceptable results.

18.2. Agency(s) shall provide uniforms and ID Badges identifying Agency for all employees working on CMHA's properties. No employees will be allowed on CMHA's properties out of uniform and without his/her ID badge on his/her person. Agency(s) must submit a picture of the uniform and a sample of his/her ID badge if requested by CMHA; uniforms are required for maintenance/repairs work.

CMHA may provide ID badges for agencies working on CMHA properties. Employees of the Agency may be prohibited from entering CMHA property without proper identification.

18.3. Agency's personnel shall be neat and conduct all work in a professional and efficient manner. If any employee of Agency is deemed unacceptable by CMHA, Agency shall immediately replace such personnel with an acceptable substitute to CMHA.



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- 18.4.** Agency(s) shall practice acceptable safety precautions so as not to cause harm to any persons or property while performing services under this contract. Agency(s) shall follow industry safety standards, and use only industry approved safety equipment in accordance with the manufacturer's specifications in the performance of all duties.
- 18.5.** Agency(s) shall pay all of its employees, including any and all approved Sub-Agency's, at least the legal minimum wages as determined by the United States Department of Labor and the United States Department of Housing and Urban Development and Department of Labor Prevailing Wage. Wage Determinations can be accessed via the Department of Labor website, www.wdol.gov.
- 18.6.** Upon completion of the work, Agency(s) shall clean up the area where the work was performed and Agency(s) shall remove any debris generated by the products and/or services at CMHA premises. Agency shall legally dispose of all litter, trash and debris accumulated as a result of the services under this contract at an offsite location. The use of CMHA dumpsters or trash receptacles is strictly prohibited.
- 18.7.** Agency(s) shall clearly mark all work areas that might reasonably be expected to endanger the health and safety of residents, guests, or any other persons. Agency(s) will provide such signs, markers and barricades as required to identify all work areas and minimize inherent dangers.
- 18.8.** The agency shall be responsible for notifying CMHA immediately of any damages (i.e. fire, container leaking) deemed to be a health or safety hazard whether the damage is caused by the agency or other means.
- 18.9.** Agency shall repair or replace, at the agency's expense, any and all items damaged or destroyed due to agency's negligence.
- 18.10.** The Agency shall be responsible for safeguarding all CMHA property provided for Agency use. At the close of each workday, CMHA facilities, property and materials shall be inspected and secured.
- 18.11.** The Agency is prohibited from placing a lien on CMHA's property. This prohibition shall apply to all subagencys.
- 18.12.** The agency (including any and all contract or subcontract employees, etc. incidental to this contract) is to be cognizant of safety at all times and take necessary safety precautions, so as not to cause harm to any persons or property while performing service or while on site. Extreme care shall be maintained around pedestrians and personal belongings.



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- 18.13. The agency and its employees shall at all times represent themselves in a courteous and professional manner. All posted driving, speed, and parking regulations shall be observed.
- 18.14. Agency(s) shall inform CMHA Procurement within two (2) working days of any change in contact information, including but not limited to contact personnel, mailing address, physical address, phone numbers and email addresses.
- 18.15. Agency represents and warrants that the fees for the goods/services are the lowest price/fees charged by Agency to any of its external buyers for similar volumes of similar goods and/or services. If Agency charges any other buyer a lower fee, Agency must apply that fee to all goods/services under this contract. If Agency fails to meet the lower price, CMHA, at its option, may terminate this contract for cause and without liability.
- 18.16. Conservation of Utilities – The Agency shall practice utility conservation in all CMHA facilities. The Agency shall be responsible for operating under conditions, which preclude the waste of utilities, which shall include:
- Lights shall be used only in areas where and when work is actually being performed.
 - Water faucets or valves shall be turned off after the required usage has been accomplished.
 - Mechanical equipment controls for heating, ventilation, and air conditioning systems shall not be adjusted by the Agency or by Agency’s employees.
 - The Agency shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed. (in 5370CI in section 6)

19. Additional Considerations:

- 19.1. **Right of Joinder; Additional Services/Purchases by Other Public Agencies (“Piggy-Back”):** Agency acknowledges that other Public Agencies may seek to “Piggy- Back” under the same terms and conditions, during the effective period of Agreement. The services and/or purchases being offered in the Contract Documents, Fee Submission and/or Best and Final Offer and for the same prices and/or terms proposed therein. Agency has the option to agree or disagree to allow contract Piggy-Backs on a case-by-case basis. In the event the awarded Agency allows another Public Agency to join the CMHA Contract, it is expressly understood that CMHA shall in no way be liable for the joining Public Agency obligations to the awarded Agency in any manner whatsoever.
- 19.2. **Non-Escalation:** Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.



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19.3. Required Permits: Unless otherwise stated in the RFP documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either CMHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and any costs submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits.

19.4. Taxes: All persons doing business with CMHA are hereby made aware that CMHA is exempt from paying Ohio State Sales and Use Taxes and Federal Excise Taxes as set forth in state and federal laws. A letter of Tax Exemption will be provided upon request.

All persons doing business with TPS are hereby made aware that TPS is exempt from paying Ohio State Sales and Use Taxes and Federal Excise Taxes as set forth in state and federal laws. A letter of Tax Exemption will be provided upon request. Although TPS is tax exempt, some properties that TPS manages are not. Please see the table below for the tax status of each property.

PROPERTY	ADDRESS	TAX STATUS
Springdale Senior Limited Partnership (Baldwin Grove)	11111 Springfield Pike Cincinnati, OH 45246	Taxable
Reserve on South Martin, LP	7363 S. Martin Street Cincinnati, OH 45231	Taxable
Touchstone Property Services, Inc.	1088 W. Liberty Street Cincinnati, OH 45214	Non-Taxable
Cary Crossing, LLC	1411 Compton Road Cincinnati, OH 45231	Taxable
West Union Square, LLC	2942 Banning Road Cincinnati, OH 45239	Taxable
Sutter View, LLC	1754 Beecker Lane Cincinnati, OH 45225	Taxable
Park Eden Evanston, LLC (dba The Evanston)	1820 Rutland Avenue Cincinnati, OH 45207	Non-Taxable
Hamilton County Affordable Housing	1088 W. Liberty Street Cincinnati, OH 45214	Non-Taxable
City West Retail	1088 W. Liberty Street Cincinnati, OH 45214	Non-Taxable
Park Eden Apartments, LLC	2610 Park Avenue Cincinnati, OH 45206	Taxable
Pinecrest RAD, LLC	3951 W. 8 th Street Cincinnati, OH 45205	Taxable
Marianna Terrace, LLC	1700 Wabash Avenue Cincinnati, OH 45215	Taxable
Horizon Hills, LLC	1003 Grand Avenue	Non-Taxable



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	Cincinnati, OH 45204	
Riverview San Marco, LLC	2538 Hackberry Street Cincinnati, OH 45206	Taxable
Riverview San Marco, LLC	1601 Madison Road Cincinnati, OH 45206	Taxable
Bennett Point, LLC	528 & 600 East 12 th Street Cincinnati, OH 45202	Taxable
Logan Commons, LLC	1712 Logan Street Cincinnati, OH 45202	Taxable

19.5. Freight on Bill and Delivery: All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFP documents or within the contract.

19.5.1. The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful proposer. Upon default, the successful proposer agrees that CMHA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.

19.6. Work on CMHA Property: If the successful proposer's work under the contract involves operations by the successful proposer on CMHA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by CMHA's negligence, shall indemnify CMHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subagencys.

19.7. Warranty: 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.

19.8. Official, Agent and Employees of CMHA Not Personally Liable: It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of CMHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

19.9. Salaries and Expenses Relating to the Successful Proposers Employees: Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment



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taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.

- 19.10. Independent Agency:** Agency is an independent agency and is not to be considered an employee of CMHA, or assume any right, privilege or duties of an employee. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 19.11. Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 19.12. Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 19.13. Limitation of Liability:** In no event shall CMHA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.
- 19.14. Lobbying Certification:** By proposing to do business with CMHA or by doing business with CMHA, each proposer certifies the following:
- 19.14.1.** 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.
- 19.14.2.** 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.
- 19.14.3.** The successful proposer shall require that the language of this certification



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be included in the award documents for all sub awards at all tiers (including subagencys, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

19.14.4. 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.

19.15. Privacy: Any Personal information collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss. Agency shall ensure that its directors, officers, employees, subagencys or agents use personal information solely for the purposes of accomplishing the services set forth herein. Agency agrees not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without express written consent of CMHA or otherwise required by law. Agency agrees to indemnify and hold harmless CMHA for any damages related to Agency's unauthorized use of personal information.

19.16. 2 CFR Appendix II to Part 200 (F), Procurement: Pursuant to this CFR, as issued by the Office of the Secretary, HUD, CMHA and the agency each agree to comply with the following provisions and agree that any contract that ensues as a result of this RFP will include the following clauses, whether actually inserted or by reference:

19.16.1. Remedies for Agency Breach: Pertaining to contract-related issues, it is the responsibility of both CMHA and the agency to communicate with each other in as clear and complete a manner as possible. If at any time during the term of this contract CMHA or the agency is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that CMHA has the right to issue unilateral addendums to this contract, but the agency does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, CMHA shall retain the right to, if conditions warrant, require the agency to respond in a shorter period of time). Further, CMHA shall, at a minimum, employ the following steps in dealing with the agency as to any performance issues:

19.16.1.1. If the agency is in material breach of the contract, CMHA may promptly invoke the termination clause detailed within Section No. 3, form HUD-5370-C,



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General Conditions for Non-Construction Contracts, Section I— (With or without Maintenance Work) or in Table 1, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the agency in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

- 19.16.1.2.** Prior to termination, CMHA may choose to warn the agency, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the agency on probation, thereby giving the agency a certain period of time to correct the deficiencies or potentially suffer termination. CMHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the agency does not agree with such action, the agency shall have 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with CMHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing CMHA's alleged incorrect action(s).
- 19.16.1.3.** After termination, if the agency does not agree with CMHA's justification for the termination, the agency shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with CMHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing CMHA's alleged incorrect action(s).
- 19.16.1.4.** The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.
- 19.16.1.5.** It is CMHA's policy to resolve all contractual issues informally and without litigation. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences.



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19.16.1.6. For contracts of \$100,000 or less, the bidder/agency may request to meet with Procurement.

19.16.1.7. All claims by an agency relating to performance of a contract shall be submitted in writing to the Procurement Office for a written decision. The agency may request a conference on the claim. The Procurement Office's decision shall inform the agency of its appeal rights to the next higher level of authority in CMHA. Agency claims shall be governed by the Changes clause in the form HUD-5370-C-I.

19.16.2. Conflict of Interest: The Agency warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest with regard to this contract.

The Agency agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer.

19.16.3. Termination for Cause and Convenience: As detailed within Clause No. 3 of Form HUD-5370-C, General Conditions for Non- Construction Contracts, Section I— (Within or without Maintenance Work) or in Mandatory Contract Clauses for Small Purchases Other Than Construction.

19.16.4. Executive Order 11246: Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 the equal opportunity clause provided under 41 CFR 60-1.4(b) is incorporated herein by reference, in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”.

19.16.5. Copeland “Anti-Kickback” Act: For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland “Anti- Kickback” Act (40 U.S.C. 3145) as supplemented in Department of Labor Regulations (29 CFR Part 3).

19.16.6. Davis-Bacon-Act: For all construction contracts awarded in excess of



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\$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented in Department of Labor Regulations (29 CFR Part 5).

- 19.16.7. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, both parties hereby agree to comply with the Contract Work Hours and Safety Act (40 U.S.C. 3702 and 3704) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 19.16.8. Rights to Inventions Made Under a Contract or Agreement.** If the contract meets the definition of “funding agreement” under 37 CFR 401.2(a) and one of the parties wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 19.16.9. Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90- 23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 19.16.10. Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, General Conditions for Non- Construction Contracts, Section I— (With or without Maintenance Work), CMHA has unlimited rights to any data, including computer software, developed by the agency in the performance of the contract specifically:
- 19.16.10.1.** Except as provided elsewhere in this clause, CMHA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
- 19.16.10.2.** The agency shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the agency in the performance of this contract,



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unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.

- 19.16.10.3.** For data first produced in the performance of this contract, the agency may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The agency grants CMHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of CMHA.
- 19.16.10.4.** The agency shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the agency identifies such data and grants CMHA a license of the same scope as identified in the preceding paragraph.
- 19.16.10.5.** CMHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, CMHA may either return the data to the agency, or cancel or ignore the markings.
- 19.16.10.6.** The agency is responsible for obtaining from its subagencys all data and rights necessary to fulfill the agency's obligations under this contract.
- 19.16.10.7.** Notwithstanding any provisions to the contrary contained in the agency's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the agency agrees CMHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer



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software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.

- 19.16.10.8.** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by CMHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any CMHA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 19.16.11.** **Clean Air Act:** For all contracts in excess of \$150,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q, and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended.
- 19.16.12.** **Byrd Anti-Lobbying Amendment (31 USC 1352):** agencies that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 19.16.13.** Equipment, services, or systems shall not include covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).



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- 19.16.13.1.** (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- 19.16.13.2.** (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- 19.16.13.3.** (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

agencies are hereby notified that none of the funds provided under this contract may be used for a project for infrastructure unless: (1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

- 19.17. Additional Federally Required Orders/Directives:** Both parties agree that they will comply with the following laws and directives that CMHA has received from HUD and that these same clauses will be a part of any contract that ensues as a result of this RFP:

- 19.17.1.** Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.



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- 19.17.2.** Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. CMHA hereby extends this requirement to the Agency and its private agencies.
- 19.17.3.** Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, CMHA requires that the Agency administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 19.17.4.** The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 19.17.5.** Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 19.17.6.** HUD Information Bulletin 909-23 which is the following:
- 19.17.6.1.** Notice of Assistance Regarding Patent and Copyright Infringement;
 - 19.17.6.2.** Clean Air and Water Certification; and
 - 19.17.6.3.** Energy Policy and Conversation Act.
- 19.17.7.** The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable nor is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party.



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19.18. Nondiscrimination: During the performance of this Contract, Agency shall comply with all federal and state nondiscrimination laws, regulations and policies.

The agency agrees:

- (1) That, in the hiring of employees for the performance of work under the contract or any subcontract, no agency or subagency, by reason of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates;
- (2) That no agency, subagency, or person acting on behalf of any agency or subagency, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry.
- (3) All agencies shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Ohio Revised Code.

See ORC 125.111

19.19. 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.

20. Federal Requirement: The Work to be performed under this Agreement may be paid for in part by federal funds and therefore is subject to federal statutes, rules, regulations, laws, orders and directives applicable to work paid for by federal funds. In the event an applicable federal requirement conflicts with any provision of the Contract Documents, the federal requirement shall prevail and take precedence over and against such conflicting provisions.

21. Survivorship: All provisions hereunder relating to payment, confidentiality, warranties, limitations on damages, publicity, and indemnity shall survive the termination of this Agreement.

22. Governing Law: This Agreement shall be governed and construed exclusively by its terms and by the laws of the State of Ohio, and the venue for any disputes will be exclusively with the court of appropriate jurisdiction in Hamilton County, Ohio.

23. Assignability: The rights and obligations of Agency are personal and may be performed only by Agency. Agency shall not assign any interest rights or obligations under this Contract without prior written consent of CMHA. Any purported assignment that does not comply with this provision is void.



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This Contract is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.

24. **Force Majeure:** Neither party shall be liable for failure to perform if such failure is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
25. **Severability:** If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the rest of the provisions of this Agreement and the Contract Documents will remain enforceable to the fullest extent permitted by law.
26. **Ownership and Use of Documents:** All documents, materials, data, and records generated as a result of this Agreement shall remain the property of CMHA. If this Agreement results in any material to be copyrighted, the author may copyright the work. However, CMHA and the HUD will have the right to a royalty free, not exclusive and irrevocable license to reproduce, publish, use and authorize others to use the work for government purposes.
27. **Order of Precedence:** The term “Contract Documents” shall include the documents listed in this Provision. Each of the Contract Documents is an essential part of the agreement between the Parties, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to provide for the entire agreement. In the event of any conflict among the Contract Documents, the order of precedence shall be:
 - 27.1. Applicable Federal and State of Ohio statutes and regulations
 - 27.2. HUD Table 1, Form HUD-5370-C General Conditions for Non-Construction Contracts, Sections I and II, if applicable
 - 27.3. This Agreement
 - 27.4. The Scope of Work, including all addenda and attachments
 - 27.5. The Agency’s Fee Submission and/or Best and Final Offer
 - 27.6. Agency’s Proposal subject to any limitations set forth in this Agreement
 - 27.7. Agency form of Agreement, if applicable
 - 27.8. Other Documents incorporated by reference (if applicable)
28. **Additional Terms and Conditions:** Unless expressly provided for herein, no additional terms and conditions included with Agency’s Response shall be evaluated or considered. Any and all such additional terms and conditions shall have no force and effect and are inapplicable to this Agreement. If submitted either purposefully through intent or design or inadvertently appearing separately in transmitting letters, specifications, literature, price lists (with the exception of the Fee Submission Proposal or Best and final Offer), or warranties, it is understood and agreed the general terms and conditions set forth herein are the only conditions applicable to this Agreement and the Proposer’s authorized signature affixed to the proposal attests to this.



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If Agency, in the ordinary course of its business, requires any type of or form of agreement that provides for Agency's general terms and conditions and such term(s) and condition(s) are contrary to or conflict with any term(s) or conditions(s) provided for herein, Parties unequivocally acknowledge and agree that the term(s) and condition(s) provided for herein shall take precedence and prevail including, but not limited to, instances when 1) the Agency's form of agreement is signed subsequent to Agency's Proposal submission and/or 2) the Agency's form of agreement expressly states that its terms and provisions take precedence and/or supersedes all other Contract Documents. Such terms and conditions will effectively be void and unenforceable. Although, such terms and conditions may remain in Agency's form of agreement, Parties acknowledge and agree that said terms and conditions have no effect, are void and are hereby expressly rejected.

29. **Contract Award/Commencement:** Submission of a response to CMHA's Solicitation constitutes acceptance of the terms of this Agreement. Upon issuance of award to Agency, CMHA is accepting Agency's offer contained in the Fee Submission and/or Best and Final Offer. **No other contractual documents will be necessary or accepted** unless specifically expressed in the Contract Award and Acceptance. The Contract commences upon the date specified in CMHA's execution and issuance of a Contract Award and Acceptance.

30. **Executive Review.** Contracts are subject to the written approval of CMHA's authorized representative and shall not be binding until so approved.



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HUD Table 1 for purchases under \$150,000:

MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES OTHER THAN CONSTRUCTION

The following contract clauses are required in contracts pursuant to 2 CFR 200 Appendix II(d) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and agency is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and State law and regulations.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by the agency pursuant to the terms of this contract, including, but not limited to; Reports, memoranda or letters concerning the research, and reporting tasks of the contract.

Energy Efficiency. The agency shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the

Energy Policy and Conservation Act (42 U.S.C. 6201) for the State in which the work under this contract is performed.

Procurement of Recovered Materials

a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the agency shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The agency shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the contractor determines that such items: (1) Are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the agency purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the agency: (i) Purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

Termination for Cause and for Convenience (contracts of \$10,000 or more).

a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the agency to fulfill the contract obligations (cause/default). The PHA shall terminate by delivering to the agency a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the agency shall: (1) Immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.



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b) If the termination is for the convenience of the PHA, the PHA shall be liable only for payment for services rendered before the effective date of the termination.

c) If the termination is due to the failure of the agency to fulfill its obligations under the contract (cause/default), the PHA may (1) require the agency to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract or otherwise, and the agency shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the agency, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the agency. In the event of termination for cause/default, the PHA shall be liable to the agency for reasonable costs incurred by the agency before the effective date of the termination. Any dispute shall be decided by the contracting officer.

Supplemental Terms for purchases under \$150,000:

Conflict of Interest. The Agency warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest with regard to this contract.

The Agency agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer.

Rights in Data (Ownership and Proprietary Interest). CMHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Agency pursuant to the terms of this Contract, including but not limited to reports, memoranda, drawings or letters concerning the research and reporting tasks of this Contract. For data other than computer software, the Agency grants to CMHA and others acting on its behalf, a paid-up, nonexclusive, irrevocable, world-wide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of CMHA.

Examination and Retention of Agency's Records. CMHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Agency's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.