



/CINCINNATI METROPOLITAN HOUSING AUTHORITY

**SOLICITATION NUMBER 2026-2803**

**REQUEST FOR QUOTATIONS FOR SMALL PURCHASE  
FOR  
HCV Program Fee Accounting**

DATE ISSUED	January 21, 2026
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 <b>11:00 AM</b> local time on <b>January 23, 2026</b> , to <a href="mailto:procurement@cintimha.com">procurement@cintimha.com</a> .
PROPOSAL SUBMITTAL RETURN & DEADLINE	<b>January 28, 2026 no later than 11:00 AM</b> local time by email to: <a href="mailto:procurement@cintimha.com">procurement@cintimha.com</a> and <a href="mailto:Drew.Kendall@cintimha.com">Drew.Kendall@cintimha.com</a>
WHAT TO SUBMIT	<p>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.</p> <p>All submissions must be in .pdf or equivalent format. Photographs and links to attachments will not be accepted.</p> <p><b><u>SUBMITTAL EMAILS MUST HAVE THE SOLICITATION NUMBER AND TITLE (2026-2803, HCV PROGRAM FEE ACCOUNTING) AND THE AGENCY NAME IN THE SUBJECT LINE</u></b></p>

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 Agencies hereby referred to as “Agencies”, to provide HCV Program Fee Accounting 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 ADDENDUM

All questions regarding the QSP and requirements must be submitted in writing to [procurement@cintimha.com](mailto: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.

### 3.0 QUOTE FORMAT

All quotations should be submitted using the Attachment C Quote Packet. **Submittals will be emailed to [Procurement@cintimha.com](mailto:Procurement@cintimha.com) and [Drew.Kendall@cintimha.com](mailto:Drew.Kendall@cintimha.com).** **The submittal email MUST include the Solicitation Number and Title (2026-2803, HCV Program Fee Accounting) and Agency Name in the subject line.**

If you don’t receive Procurement acknowledgement of your proposal within 24 hours of submission, please email Procurement and Drew Kendall to confirm receipt.

### 4.0 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



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Authority employees.

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	45%	The <b>PROPOSED COSTS</b> to provide the services requested
2	0-5	30%	<b>Relevant Experience:</b> Agency'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 description of the company's related experience. References should be applicable to the type of work requested in this solicitation.
3	0-5	25%	<b>Project Management Ability/Quality Assurance:</b> Describe how projects with multiple sites and employees will be managed and how quality will be ensured.
		100%	<b>Total Points</b>

## 5.0 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 per pool of contracts over the term of the contract. The term shall not exceed three years.

## 6.0 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.



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### **7.0 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.

### **8.0 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 Authority 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.

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**

The HCV Analysts are responsible for overseeing financial operations and compliance within the Housing Choice Voucher (HCV) program. This role ensures timely and accurate reporting to the Controller, Program Leadership and HUD, maintains fiscal integrity, and supports strategic financial planning.

#### **2.0 Services to be Provided**

##### **HUD Reporting & Compliance**

- Complete and submit monthly data to HUD's Electronic Voucher Management System (eVMS) accurately and on time.
- Prepare and analyze the Two-Year Forecasting Tool to project HAP funding needs and utilization.
- Reconcile and tie out the RNP (Restricted Net Position) and UNP (Unrestricted Net Position) in eVMS, Financials and FDS (Financial Data Schedule).
- Coordinate with the Agency Accounting team to conduct SEMAP (Section Eight Management Assessment Program) audits and reporting on time.
- Monitor and report on SEMAP indicators to ensure compliance and performance.
- Assist in preparing responses to HUD inquiries and audits.

##### **Financial Management**

- Maintain and reconcile general ledger accounts related to HCV, including HAP, administrative fees, and COCC allocations.
- Prepare monthly journal entries for insurance, amortization, depreciation, and other operational expenses.
- Maintain portability sub-ledgers
- Analyze administrative fee balances and provide monthly variance reports.
- Monitor HAP disbursements and payments to landlords.

##### **Budgeting & Forecasting**

- Maintain and track funding and proration factor assumptions
- Assist in developing annual budgets for the HCV program.
- Support long-term financial planning and forecasting for HCV funding and utilization.
- Develop and report MOD Year End Settlement Statements

##### **Audits & Internal Controls**

- Coordinate with the Agency accounting team to ensure all HCV Program bank accounts are reconciled and tie out to the RNP and UNP each month.
- Ensure compliance with HUD regulations and GAAP.
- Prepare documentation and schedules for external audits and HUD reviews.



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### Reporting & Analysis

- Provide data and insights to support decision-making by senior leadership.
- Maintain accurate records for all HCV-related funds and grants.
- Provide timely and accurate information to the CMHA Controller

### 3.0 Pool of Agencies

**3.1** The Authority intends to create an inventory (or “pool”) of agencies to provide these 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.

**3.2** 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, cost, manpower, timelines and other items of importance. Agencies selected will serve in the Pool for a period of three years.

### 4.0 Performance Standards

**4.1** Invoices are to be submitted within two weeks after completion of the service (see *Invoicing* in the General Terms and Conditions). If invoices are submitted late, the amount to be paid shall be reduced:

Number of days to submit invoice to CMHA after completion of work or receipt by CMHA in Yardi (whichever is later)	Performance Deduction from Invoice
<30	0%
>30	30%
>60	50%
>90	75%
>120	100% (No payment)

**4.2** CMHA may waive the fee reductions at their discretion after discussing extenuating circumstances with the agency. Such waiver shall be in writing at the time of the service and may be considered by CMHA in the award of future work under this contract and award of future contracts.



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### 5.0 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 Authority 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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Accounting  
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. However, at no time may the term of this Agreement exceed three 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 Subagencies:** All requirements for the Prime Agency shall also apply to any and all subagency's hired by the agency. It is the agency's responsibility to ensure compliance by the subagencies. At all times the agency remains liable to the Authority for the performance and compliance of their sub-agencies.
  - 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. **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.



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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. 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. Redaction of information not subject to disclosure under public records law is the sole responsibility of agencies submitting proposals and other submissions. CMHA will not redact any information submitted by agencies when responding to public records requests.”
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 ("CO") 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 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.



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**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;
  - 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 adverse to CMHA, CMHA shall pay CMHA's receipt of the decision. If the decision is in favor of CMHA, the agency will either:



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- 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.

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 subagency's, directors, officers and



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employees or results from any breach or violation by agency, its subagencies, 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.
- 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. Professional liability and/or “errors and omissions” coverage with a limit not less than \$1,000,000.**



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- 11.1.1.** This is required for vendors who render observational services to the Authority such as appraisers, inspectors, attorneys, engineers, or consultants.
- 11.1.2.** The coverage shall be not less than \$1,000,000 each occurrence and \$1,000,000 general aggregate.
- 11.1.3.** The Authority and its affiliates must be named as an Additional Insured and be a Certificate Holder.
- 11.1.4.** 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.

**11.2.** 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.

- 11.2.1.** The Contract may be terminated if the insurance lapses.

**11.3.** Coverage required of this Contract will be primary over any insurance or self-insurance carried by CMHA.

**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.



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### **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.

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(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.
- 18.2.** 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.

### **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.



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

**19.3.** **Required Permits:** Unless otherwise stated in the RFQ documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFQ, 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.

**19.5.** **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.

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

**19.7.** **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.

**19.8.** **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.

**19.9.** **Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.

**19.10.** **Limitation of Liability:** In no event shall CMHA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.



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**19.11.** **Lobbying Certification:** By proposing to do business with CMHA or by doing business with CMHA, each proposer certifies the following:

**19.11.1.** 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.

**19.11.2.** 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.

**19.11.3.** The successful proposer shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subagency's, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

**19.11.4.** 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.

**19.12.** **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, subagencies 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.



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**19.13. 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 RFQ will include the following clauses, whether actually inserted or by reference:

**19.13.1.** 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:

**19.13.1.1.** 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, 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.

**19.13.1.2.** 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 they do not do so within the 10-day period, they 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).



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**19.13.1.3.** 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 they do not do so within the 10-day period, they 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).

**19.13.1.4.** The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.

**19.13.1.5.** 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.

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

**19.13.1.7.** 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.

**19.13.2.** **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, they shall make an immediate and full disclosure in writing to the Contracting Officer.

**19.13.3.** **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.



19.13.4.

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**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.”.

19.13.5

**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.

19.13.6

**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.

19.13.7.

**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:

19.13.7.1.

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.

19.13.7.2.

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, 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



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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.

- 19.13.7.3.** 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.
- 19.13.7.4.** 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.
- 19.13.7.5.** 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.
- 19.13.7.6.** The agency is responsible for obtaining from its subagencies all data and rights necessary to fulfill the agency's obligations under this contract.
- 19.13.7.7.** 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 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.
- 19.13.7.8.** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by CMHA except as



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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.

**19.13.8.** 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).

**19.13.8.1.** (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).

**19.13.8.2.** (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

**19.13.8.3.** (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



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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. Buy America preference excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

**19.14. 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 RFQ:

- 19.14.1.** 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.
- 19.14.2.** 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.
- 19.14.3.** 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.
- 19.14.4.** The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 19.14.5.** Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).



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**19.14.6.** HUD Information Bulletin 909-23 which is the following:

- 19.14.6.1.** Notice of Assistance Regarding Patent and Copyright Infringement;
- 19.14.6.2.** Clean Air and Water Certification; and
- 19.14.6.3.** Energy Policy and Conservation Act.

**19.14.7.** 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.

**19.15.** **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

**19.16.** **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.



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- 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. 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.** Agency’s Fee Submission and/or Best and Final Offer



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- 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.

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.

#### **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.
- 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 of 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, they 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



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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.

# General Conditions for Non-Construction Contracts

## Section I – (With or without Maintenance Work)

**U.S. Department of Housing and Urban Development**

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

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

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

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

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

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

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

proposal submitted before final payment of the contract.

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

#### 3. Termination for Convenience and Default

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

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

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

(b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:

- (i) appeals under the clause titled Disputes;
- (ii) litigation or settlement of claims arising from the performance of this contract; or,
- (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

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

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

## 6. Energy Efficiency

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

## 7. Disputes

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

## 8. Contract Termination; Debarment

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

## 9. Assignment of Contract

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

## 10. Certificate and Release

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

## 11. Organizational Conflicts of Interest

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

## 12. Inspection and Acceptance

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

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

(b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.

(c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

### **13. Interest of Members of Congress**

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

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

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

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

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

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## 16. Equal Employment Opportunity

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

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

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

## 17. Dissemination or Disclosure of Information

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

## 18. Contractor's Status

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

## 19. Other Contractors

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

## 20. Liens

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

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

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

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

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

## **22. Procurement of Recovered Materials**

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

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