



REQUEST FOR PROPOSALS

(HCHC RFP No. 01-04-2016)

**Howard County Housing Commission
6751 Columbia Gateway Drive, Third floor
Columbia, Maryland 21046**

PERFORMANCE OF HOUSING QUALITY STANDARDS INSPECTIONS

Issuance Date: April 14, 2016

Submission Deadline: 2:00 p.m. Eastern Prevailing Time on April 28, 2016

Non-Mandatory Pre-Proposal Conference: 2:30 p.m. EPT on April 21, 2016

Location: address listed above

If attending Conference, must RSVP to:

spaul@howardcountymd.gov by 5:00 p.m. EPT on April 20, 2016

Questions Deadline: April 21, 2016 at 5:00 p.m. EPT

ALL QUESTIONS MUST BE SUBMITTED IN WRITING (See Section 13)

Issued by:

**Howard County Housing Commission
Thomas P. Carbo, Executive Director**

For additional information contact:

**Samit Paul, Contracts Manager
spaul@howardcountymd.gov**



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1. INTRODUCTION

It is the intent of the Howard County Housing Commission (the “Commission”) to enter into a contract with a qualified and experienced contractor (the “Contractor”) for: (1) the performance of on-going Housing Quality Standards (“HQS”) inspections for approximately 1,400 government-subsidized rental dwelling units located in Howard County, Maryland (the “County”) in full conformity with HQS regulations established by the U.S. Department for Housing and Urban Development; and (2) additional duties as described in this Request for Proposals (this “RFP”).

The Contractor shall furnish sufficient organization, personnel, and management staff with proper skill and judgment as well as all equipment and supplies necessary to perform all the duties and responsibilities normally associated with the HQS inspection function including but not limited to scheduling, correspondence, inspections, and quality control. Please note that the specifications listed in this RFP may overlook some incidental duties not currently identifiable. It is the intent of this RFP to solicit a full-service HQS inspection firm.

2. CONTRACT PERIOD

The effective date of the contract noted in Section 1 above will be **July 1, 2016** and the initial term will be for one (1) year. The Commission shall have the option of extending the contract for up to three (3) additional years in one-year increments.

3. COMMISSION BACKGROUND

Organized in 1990, the Commission is an independent State-chartered Public Housing Authority. The mission of the Commission is to provide safe, quality, affordable, and sustainable housing opportunities for low- and moderate-income families in Howard County, Maryland and to assist them in moving toward economic independence. The Commission pursues this mission through open, efficient, innovative, and accountable processes.

The Commission’s Board of Commissioners consists of seven members, each appointed by the County Executive and approved by the County Council. The Commission develops and manages housing resources to benefit low- and moderate-income residents of the County. In addition to owning and managing

residential property, the Commission develops housing opportunities through cooperative efforts with developers, government entities, and private investors. Additionally, the Commission operates the federally-funded Housing Choice Voucher Program for the County.

4. UNIT PORTFOLIO AND INSPECTION HIGHLIGHTS

As stated in Section 1, this RFP pertains to approximately 1,400 government-subsidized rental dwelling units. The units are “floating” in nature (i.e., the rental subsidies are attached to the tenants and move with them from unit to unit). See highlights below.

- 4.1 Approximately **99 percent** of the units are subject to the federal Section 8 Tenant-Based Housing Choice Voucher Program (“HCVP”) and the remaining **1 percent** is subject to a similar local County housing assistance program – the Housing Stability Subsidy Program (“HSSP”). The Commission’s inspection protocols for HSSP units are derived from those applied to HCVP units and the Contractor should view the HSSP and HCVP units as the same when performing its contracted services.
- 4.2 Approximately **56 percent** of the units are apartment/condo, **38 percent** are single-family attached, **3 percent** are single-family detached, and **3 percent** are mobile home.
- 4.3 Approximately **80 percent** of the units are located in Columbia, Maryland.
- 4.4 Approximately **11 percent** of the units are owned by the Commission.
- 4.5 The table below contains the total number of HQS inspections conducted for the Commission in calendar year 2015 as divided into the specified types of inspection:

Type of HQS Inspection	Quantity
Initial	300
Annual	1140
Move-out ¹	0
Re-inspection	480
24-hour Re-inspection	48
48-hour/Special ²	24
Quality Control ³	84
No-Show (no inspection) ⁴	312

¹ There will be no Move-out inspections in the future as well.



² Means an inspection that needs to be completed quickly upon request by the Commission due to special circumstances (ex: Commission is attempting to house a currently homeless family).

³ Approximately 7 Quality Control Inspections must be performed monthly.

⁴ Means an instance where nobody was present to make the unit available for inspection as scheduled.

4.6 In calendar year 2015, the inspection pass/fail rate was approximately **78 percent** pass and **22 percent** fail. The Commission estimates an average No-Show rate of **13 percent**.

5. SPECIFICATIONS FOR HQS INSPECTIONS SERVICES

The minimum protocol for HQS inspections and related duties that is expected by the Commission is outlined in Exhibit A.

6. ADDITIONAL DUTIES: RENT REASONABLENESS DETERMINATIONS AND QUARTERLY MEETINGS

6.1 The Contractor will be required to conduct rent reasonableness determinations and re-determinations. These (re)determinations must be made in writing and in accordance with 24 CFR 982. See 24 CFR 982.507 for guidance on when (re)determinations are required and the methodology to be used. The Commission estimates that the Contractor will be required to conduct an average of **12** rent reasonableness (re)determinations monthly.

6.2 Representatives of the Contractor must meet with representatives of the Commission on quarterly basis to address questions and comments of the Commission regarding the Contractor's performance.

7. CONTRACTOR'S QUALIFICATIONS

To be eligible for award, the Contractor must meet each of the following qualifications.

7.1 The Contractor must be a corporation or company that is validly existing and permitted to do business in Maryland. Additionally, the Contractor must be in good standing with the Maryland State Department of Assessments and Taxation. More information is available at <http://www.dat.state.md.us/>.

7.2 The Contractor must clear the federal debarment list under the U.S. System for Award Management (SAM). Federal debarment is checked for

both the company and principal(s) of the company. More information is available at <https://www.sam.gov/portal/public/SAM/>.

- 7.3 The Contractor must possess, or be eligible to possess, all required licenses, permits, and other approvals needed to properly carry out all of its obligations under the contract.
- 7.4 The Contractor must have the capability to integrate with the Commission's Yardi software in a manner that allows for inspection data to be imported into the Commission's system.
- 7.5 The Contractor must have a proven record of providing the services required. The Commission reserves the right to perform investigations as may be deemed necessary to ensure that competent personnel and management will be utilized in the performance of the services.

8. INSURANCE REQUIREMENTS

- 8.1 The Contractor shall purchase and maintain, during the term of the contract, including any renewals thereof, such policies of insurance acceptable to the Commission as will protect the Contractor and the Commission from claims or losses, regardless of whether such claims or losses result from the Contractor's actions or omissions or those of a subcontractor or those of anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The following coverages are mandatory but may not be all-inclusive, based on the parameters of the proposal:
 - 8.1.1 Worker's Compensation Insurance: Statutory coverage for Maryland jurisdiction, including Employer's Liability coverage, with a limit of at least \$100,000.
 - 8.1.2 Commercial General Liability Insurance: Combined single liability limits of \$1,000,000 per occurrence, naming "Howard County Housing Commission" and "Howard County, Maryland" as additional insureds.
 - 8.1.3 Automobile Liability Insurance: Combined single limits of liability of at least \$1,000,000 per occurrence.
- 8.2 All policies of insurance shall be underwritten by companies licensed to do business in the State of Maryland.
- 8.3 The Contractor shall assure that all subcontractors performing services in accordance with this solicitation carry identical insurance coverage as required of the contract, either individually or as an additional insured on

the policies of the Contractor. Exceptions may be made only with the written approval of the Commission. Contractor shall indemnify the Commission for any uninsured losses relating to contractual services involving subcontractors, including workers' compensation claims.

- 8.4 The Contractor shall not commence work under the contract until the Commission receives evidence of all required coverage. Further, the Contractor shall not reduce, cancel, or change any of the required coverages without 60 days' notice of such change to the Commission.
- 8.5 The Contractor will not hold the Commission or Howard County liable for any injuries to the employees, servants, agents, subcontractors or assignees of the contract arising out of or during the course of services relating to this agreement.
- 8.6 The providing of any insurance required herein does not relieve the Contractor of any of the responsibilities or obligations assumed by the Contractor in the contract awarded or for which the Contractor may be liable by law or otherwise.
- 8.7 Failure to provide and continue in force such insurance as required above shall be deemed a material breach of the contract for which the Commission may terminate the contract.

9. HOLD HARMLESS/INDEMNIFICATION

- 9.1 The Contractor shall indemnify and hold the Commission and Howard County harmless from and against all liability and expenses, including attorney's fees, howsoever arising or incurred, alleging damage to property or injury to, or death of, any person arising out of or attributable to the Contractor's performance of the contract awarded, provided that the Contractor shall not be responsible for acts of negligence or willful misconduct committed by the Commission, its employees, agents and officials.
- 9.2 Any property or work to be provided by the Contractor under this contract will remain at the Contractor's risk until written acceptance by the Commission; and the Contractor will replace, at Contractor's expense, all property or work damaged or destroyed by any cause whatsoever.

10. SUBMISSION OF DOCUMENTS

- 10.1 An incomplete response to this RFP may be cause for rejection. To be considered complete, a response to this RFP must include all of the items

listed below:

- 10.1.1 Completed and executed Document A (Proposal Cover Page);
 - 10.1.2 Responses to Document B (Required Proposal Content);
 - 10.1.3 Completed and executed Document C (Affidavit); and
 - 10.1.4 Completed and executed Document D (HUD-5369-C).
- 10.2 Each proposer must submit four (4) physical copies AND one (1) electronic copy of their proposal. Proposers must comply with each of the following submission guidelines:
- 10.2.1 The physical copies must be mailed or hand-delivered to Howard County Housing Commission, Attn: S. Paul, 6751 Columbia Gateway Drive, Third Floor, Columbia, MD 21046. Proposals must be securely sealed and clearly marked "HCHC RFP No. 01-04-2016."
 - 10.2.2 The electronic copy of the proposal must be in Adobe portable document format (.pdf) and must be e-mailed to spaul@howardcountymd.gov or provided on a compact disc (CD) along with the physical copies. **NOTE: An e-mail with an attachment that exceeds 10 megabytes (MB) will be rejected by the Commission's e-mail server. If necessary, the electronic copy may be broken into clearly labeled parts (ex: 1 of 3, 2 of 3, and 3 of 3) and sent over multiple e-mails.**
 - 10.2.3 Submissions sent by e-mail only or by fax will not be accepted.
 - 10.2.4 Proposals must be received by the Commission in both required formats by no later than 2:00 p.m. EPT on April 28, 2016.
- 10.3 A submission in response to this RFP shall be considered as a representation that the proposer:
- 10.3.1 Has carefully reviewed the terms and conditions of this RFP;
 - 10.3.2 Has carefully investigated all conditions which affect or may, at some future date, affect the performance of the services covered by the proposal;
 - 10.3.3 Is familiar with the entire area to be serviced as described in the specifications;
 - 10.3.4 Has carefully reviewed all contract documents;
 - 10.3.5 Is fully informed concerning the conditions to be encountered,

character, quality, and quantity of work to be performed and materials to be furnished;

10.3.6 Is familiar with all applicable federal, state, and county laws, codes, and ordinances that in any way affect the prosecution of the work or persons engaged or employed in the work specified herein;

10.3.7 Agrees that the Commission may copy the proposal to facilitate evaluation and/or responding to requests for public records; and

10.3.8 Warrants that any copying of the proposal by the Commission will not violate the rights of any third party.

11. EVALUATION OF PROPOSALS

The Commission intends to make award to the responsible proposer whose proposal represents the best overall value to the Commission. Proposals will be evaluated based on the following criteria:

11.1 Experience, capacity, and technical competence to perform the required services;

11.2 Completeness of the proposal; and

11.3 Price.

The Commission, in its sole discretion, may enter into negotiations or interviews with proposers and invite best and final proposals as deemed to be in the best interest of the Commission. Negotiations or interviews may be in the form of face-to-face, telephone, facsimile, e-mail, or written communications, or any combination thereof, at the Commission's sole discretion. Proposers, however, are strongly advised not to prepare their proposals based on any assumption or understanding that negotiations or interviews will take place. Proposers are advised to respond to this RFP fully and with forth-rightness at the time of submission. Nothing herein is intended to limit the Commission's ability to proceed in a manner that is most advantageous to the Commission.

Following submission, proposers are strongly cautioned not to contact elected officials or members of the evaluation committee regarding the selection process. Inappropriate efforts to lobby or influence individuals involved in the selection process may result in dismissal from further consideration, at the Commission's sole discretion.

12. PUBLIC RECORDS AND REQUESTS FOR CONFIDENTIAL TREATMENT

Timely proposals become the property of the Commission. A proposal will be open to the public under the Maryland Public Information Act (General Provisions Article, Title 4) (the “PIA”) and other applicable laws and rules.

Proposers may request that the Commission treat certain information contained in their proposals as exempt from disclosure. To receive such treatment, the proposer must show the specific grounds in the PIA or other applicable law or rule that support exempt treatment and must submit an additional copy of the proposal with the exempt information deleted. The additional copy must provide the general nature of the material removed and shall retain as much of the original proposal as possible.

A proposer shall be responsible for any costs or damages associated with defending the proposer’s request for exempt treatment.

The other provisions of this Section notwithstanding, the Commission shall retain the ultimate discretion to determine whether any part of any proposal should be disclosed.

13. QUESTIONS

Questions concerning this RFP must be made in writing and e-mailed to spaul@howardcountymd.gov. Questions must be received by no later than 5:00 p.m. EPT on April 21, 2016. Answers to questions and any addenda/amendments to the RFP will be posted by April 26, 2016 on the Commission’s website at <https://www.howardcountymd.gov/Departments/Housing/Housing-Commission/Doing-Business-with-the-Howard-County-Housing-Commission>.

PROPOSAL COVER PAGE

TITLE: PERFORMANCE OF HQS INSPECITONS (HCHC RFP NO. 01-04-2016)

TO: HOWARD COUNTY HOUSING COMMISSION
6751 Columbia Gateway Drive, Third Floor
Columbia, MD 21046

Company Name:

Address:

(City) (State) (Zip Code)

Phone: Fax: E-Mail:

Federal Tax ID No.:

MD Dept. of Assessments and Taxation ID No.:

Request for Confidential Treatment (check one):

- [] We are not requesting confidential treatment for this proposal.
[] We are requesting confidential treatment for portions of this proposal. We have supplied, as an attachment to this proposal, a list of the provisions identified by section number for which we seek confidential treatment along with the statutory basis under Maryland law for exempting that information from public disclosure. We have supplied an additional copy of the proposal with confidential information deleted. In the event the designation of confidentiality of this information is challenged, the undersigned hereby agrees to provide legal counsel or other necessary assistance to defend the designation of confidentiality and agrees to indemnify and hold the Commission and Howard County, Maryland harmless for any costs or damages arising out of the Commission agreeing to withhold the materials based on our request. Our stated bases for confidential treatment notwithstanding, we understand that the Commission shall have the ultimate discretion to determine whether the information provided in our proposal should be disclosed in accordance with applicable law. We agree that the Commission may deem our request for confidential treatment to be invalid if we fail to include in this submission all information and documentation required by this paragraph.

The undersigned affirms that all statements in this submission are true and accurate to the best of the knowledge and belief of the undersigned:

SIGNATURE

DATE

PRINTED NAME

TITLE



REQUIRED PROPOSAL CONTENT

The Proposal must address each of the following items:

1. **Cover Letter.** Letter of interest that summarizes the Proposer's interest in the project, a brief description of qualifications, statement of understanding of the services solicited by this RFP, and identification of a primary contact person.
2. **Description of Proposer.** Provide a concise description of the company and the resumes and relevant certifications of all key personnel involved in performing the services solicited by this RFP.
3. **Statement of Qualifications.** Explain the knowledge and experience that qualifies the Proposer to perform the services solicited by this RFP.
4. **Policies and Procedures.** Discuss the Proposer's hiring and employment policies as it pertains to individuals who will be hired/employed to perform the services solicited by this RFP. Provide the proposed standard operating procedures that will govern performance of the services solicited by this RFP.
5. **Technical Approach.** Describe the equipment and software to be used by the Proposer in performing the services solicited by this RFP. Discuss the Proposer's familiarity and capability to integrate with the Commission's Yardi software in a manner that allows for inspection data to be imported in to the Commission's system.
6. **Past Performance.** List assignments within the past three (3) years that best demonstrate the Proposer's competence to perform the services solicited by this RFP. Each listed assignment must be accompanied by each of the following:
 - a. Narrative of project and key participants;
 - b. Date started and completed; and
 - c. Contact person.
7. **Price Proposal.** Provide a detailed and itemized price proposal. This should include per-inspection prices for the different types of inspections listed in Section 4.5 of this RFP.

Tax-Exemption. - The Howard County Housing Commission is exempt from all local, state, and federal taxes, and prices stipulated by the Contractor are considered maximum and are not subject to any increase due to any taxes, or any other reason. The Commission's Tax Exemption number is 30001219.

8. **EBO Information.** Confirm whether the Proposer is a minority-owned business enterprise, women-owned business enterprise, disabled-owned business enterprise, or a HUD-defined Section 3 business concern and, if applicable, provide a copy of valid certification.

DOCUMENT C

AFFIDAVIT

Contractor _____

Address _____

I, _____, the undersigned _____, of the above named
(Print Signer's Name) (Print Office Held)

Contractor does declare and affirm this _____ day of _____, _____, that I hold the
aforementioned office in the above named Contractor and I affirm the following:

AFFIDAVIT I

The Contractor, his Agent, servants and/or employees, have not in any way colluded with anyone for and on behalf of the Contractor or themselves, to obtain information that would give the Contractor an unfair advantage over others, nor have they colluded with anyone for and on behalf of the Contractor, or themselves, to gain any favoritism in the award of the contract herein.

AFFIDAVIT II

No officer or employee of Howard County, Maryland or the Howard County Housing Commission, whether elected or appointed, has in any manner whatsoever, any interest in or has received prior hereto or will receive subsequent hereto any benefit, monetary or material, or consideration from the profits or emoluments of this contract, job, work or service for the Commission, and that no officer or employee has accepted or received or will receive in the future a service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally, nor has any such officer or employee of the County or Commission received or will receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable to the Commission in connection with this contract, job, work, or service for the Commission, excepting, however, the receipt of dividends on corporation stock.

AFFIDAVIT III

Neither I, nor the Contractor, nor any officer, director, or partners, or any of its employees who are directly involved in obtaining contracts with Howard County or the Commission have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state, or of the federal government for acts of omissions committed after July 1, 1977.

AFFIDAVIT IV

Neither I, nor the Contractor, nor any of our agents, partners, or employees who are directly involved in obtaining contracts with Howard County or the Commission have been convicted within the past 12 months of discrimination against any employee or applicant for employment, nor have we engaged in unlawful employment practices as set forth in Section 12.200 of the Howard County Code, or of Section 16 of Article 49B of the Annotated Code of Maryland or, of Sections 703 and 704 of Title VII of the Civil Rights Act of 1964.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavits are true and correct to the best of my knowledge, information and belief.

DATE

SIGNATURE

PRINTED NAME

TITLE



CERTIFICATIONS AND REPRESENTATIONS OF OFFERORS (HUD 5369-C)

DOCUMENT D BEGINS ON FOLLOWING PAGE

Document D



Certifications and Representations of Offerors Non-Construction Contract

Public reporting burden for this collection of information is estimated to average 5 minutes 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.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offerors to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Contingent Fee Representation and Agreement

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

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

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

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

2. Small, Minority, Women-Owned Business Concern Representation

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

- (a) is, is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) is, is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) is, is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- | | |
|---|---|
| <input type="checkbox"/> Black Americans | <input type="checkbox"/> Asian Pacific Americans |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans |
| <input type="checkbox"/> Native Americans | <input type="checkbox"/> Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

(b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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

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

4. Organizational Conflicts of Interest Certification

(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 a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of 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 HA, the HA may terminate the Contract for default.

(d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

INSTRUCTIONS TO OFFERORS NON-CONSTRUCTION (HUD 5369-B)

DOCUMENT E BEGINS ON FOLLOWING PAGE

Document E



Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

STANDARDS FOR HQS INSPECTIONS

1. **General.** All HQS inspectors must:
 - 1.1 Possess a valid HQS inspection certification from a nationally-recognized training organization;
 - 1.2 Possess a valid driver's license;
 - 1.3 Have access to a vehicle during regular work hours; and
 - 1.4 Be available to work regularly on business days.

2. **Initial Inspections.** Inspect each newly leased unit to determine compliance with HQS ("Initial Inspection"). The following procedures shall apply to all Initial Inspections:
 - 2.1 Within 24 hours of receipt of a Request for Tenancy Approval Form ("RFTA") (HUD 52517), contact the owner/agent listed thereon to schedule the Initial Inspection within the next three (3) business days.
 - 2.2 Provide an e-mail notification to the Commission of the pass/fail status of the inspection on the same business day that the Initial Inspection is conducted. Within three (3) business days after completing the Initial Inspection, provide the inspection report to the Commission.
 - 2.3 If the unit fails the Initial Inspection, within three (3) business days after completing the Initial Inspection, provide the owner/agent with a written notification listing the deficiencies causing the fail rating and state that s/he has 30 days from the date of the notification to correct the deficiencies and schedule a re-inspection. Send copies of the notification to the Commission and prospective tenant.
 - 2.4 If the unit fails a re-inspection or the time period provided to the owner/agent to correct the failing item(s) lapses, void the RFTA and return it to the Commission with a written explanation of the basis for voiding.

3. **Annual Inspections.** After the Initial Inspection, complete an HQS inspection of each unit no later than 364 days after the last passing inspection date ("Annual Inspection"), unless instructed otherwise by the Commission. For each Annual Inspection, mail a 15-day notice of inspection to the tenant and the owner/agent.

4. **Re-inspections.** For all re-inspections:
 - 4.1 Complete all initial re-inspections within three (3) business days of notification by the owner/agent that the unit is ready for re-inspection.
 - 4.2 Complete all non-emergency annual re-inspections within 30 days from the date of the Annual Inspection.

STANDARDS FOR HQS INSPECTIONS

- 4.3 Complete re-inspections of all life-threatening fail items within 24 hours of the inspection in which the items were discovered.
5. **All Inspections.** For all inspections:
- 5.1 Conduct a physical inspection in accordance with federal Housing Quality Standards regulations, 24 CFR 982.401 *et seq.*, the Lead Safe Housing Regulations, and the Commission's Administrative Plan.
- 5.2 Schedule all inspections promptly.
- 5.3 Schedule all inspections, regardless of type, within a window of no more than four (4) hours.
- 5.4 Send all notices and related follow-up correspondence, including notices for pass/fail results, rescheduling, missed appointments, abatement of HAP payments, termination of assistance, etc. to both tenant and owner/agent by first-class mail.
- 5.5 Determine and specify the party (tenant or owner/agent) responsible for correction of each failed item listed on all deficiency reports or correspondences.
- 5.5.1 Update the Commission's property management software with updated inspection information from the fields in the HUD Inspection Form (HUD 52580).
- 5.5.2 Upon completion of any inspection, deliver to the Commission a complete package of all physical documents for each inspection within two (2) business days from completion of a "pass" inspection. The package shall include the following:
- 5.5.2.1 Completed HUD 52580;
- 5.5.2.2 Copies of deficiency reports and letters, if any;
- 5.5.2.3 Copies of letters sent to tenant and owner/agent;
- 5.5.2.4 Copies of missed appointment notices, if any;
- 5.5.2.5 Copies of telephone logs reflecting all communications with tenant and owner/agent; and
- 5.5.2.6 Copies of any termination or abatement notices.
6. **Notifications.** All notifications, regardless of type, must at a minimum include the following information:
- 6.1 Date notification was printed;
- 6.2 Name and complete mail address of owner/agent;
- 6.3 Name and complete mail address of tenant;

STANDARDS FOR HQS INSPECTIONS

- 6.4 Tenant ID number;
 - 6.5 Name of inspector;
 - 6.6 Contact telephone of the Contractor;
 - 6.7 Type of (re)inspection;
 - 6.8 Date of (re)inspection;
 - 6.9 Scheduling timeframe of (re)inspection (military time will not be accepted); and
 - 6.10 For a “Deficiency Notification”, provide a complete and detailed list of all deficiencies identified during the inspection.
7. **Rescheduling**. For each inspection that is scheduled during a tenant’s residency at a unit, the tenant shall be allowed a maximum of two (2) opportunities to reschedule the inspection appointment.
 8. **Missed Appointments**. For each inspection that is scheduled during a tenant’s residency at a unit, a person who is at least 18 years old must be present at the unit at the time of the inspection. If the Contractor arrives at the unit on the scheduled date and time and reasonably determines that no person at least 18 years old is present at the unit, the tenant will be deemed to have missed the inspection appointment. If the tenant misses two appointments for the same inspection, the Contractor shall send a notice of termination from HCVP to the tenant and provide a copy of the notice to the Commission.
 9. **Administrative Hearings**. Upon the Commission’s request, be available to attend and testify at administrative hearings regarding terminations of participants from HCVP.
 10. **Rent Reasonableness and Utility Data**. Upon completion of Initial and Annual Inspections, the Contractor shall collect and report rent reasonableness and utility allowance information. For Initial Inspections, the Contractor shall compare utility information to the RFTA for accuracy.
 11. **Reports**. Complete the following on a monthly basis:
 - 11.1 Submit to the Commission an Inspection Performance Summary Report in a format agreed to by the Commission.
 - 11.2 Complete and submit to the Commission all reporting requirements for

STANDARDS FOR HQS INSPECTIONS

inspections under the Section Eight Management Assessment Program (the "SEMAP").

12. **Quality Control**. The Contractor shall develop and implement a quality control program that exceeds the minimum standards required under 24 CFR 985.2, 24 CFR 985.3 (e) and (f) for all inspections conducted on a monthly basis.



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HOWARD COUNTY HOUSING COMMISSION

AGREEMENT

THIS AGREEMENT (the "Agreement"), made this _____ day of _____ 2015, is by and between the **HOWARD COUNTY HOUSING COMMISSION**, a public body corporate and politic (hereinafter the "Commission"), and [**CONTRACTOR**] having an address of [ADDRESS] (hereinafter the "Contractor").

WHEREAS, the said Contractor, in consideration of the payments hereinafter specified and agreed to be made by said Commission, hereby covenants and agrees to perform all services, in strict and entire conformity with the Attachment A entitled, "Services to be Performed/Goods to be Provided", Attachment B entitled, "Insurance Requirements", and Attachment C entitled, "Section 3 Clause."

NOW THEREFORE, in consideration of the mutual promises and covenants, the parties hereto agree that the Commission shall pay the Contractor an amount as set forth herein for services rendered and goods provided in accordance with this Agreement, the other attachments hereto, and the Proposal, all of which are hereby incorporated into and made a part of this Agreement. Notwithstanding any other terms or provisions of this Agreement, in the event the Commission is temporarily or permanently prevented, restricted or delayed in the performance of any or all of the duties and obligations imposed upon or assumed by it hereunder by act of the General Assembly of Maryland or the Howard County Council, by a court of competent jurisdiction or by administrative delay not due to the fault of the Commission (and its members and agents), the Commission shall not be liable directly or indirectly for any claims caused to or suffered by the Contractor or any other person in connection with or as a result of such prevention, restriction or delay. In addition the parties hereto agree as follows:

1. **Contractor's Duties.**

The Contractor shall be an independent Contractor and not an employee of the Commission, and shall be responsible for the reporting and remittance of all state and federal taxes. The Contractor shall perform the services and provide the goods outlined in Attachment A hereto. The Contractor's services will be performed with due care and goods will be provided in accordance with all applicable standards.

2. **Compensation.**

2.1 In consideration of the services and goods to be provided by the

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Contractor, the Commission shall pay the Contractor an amount equal to the amount invoiced pursuant to Paragraph 2.2 below. The disbursement shall be disbursed upon completion of the services and delivery of the goods described herein in a manner satisfactory to the Commission, in its sole discretion.

2.2 The Contractor shall submit invoices to the Commission monthly. The Contractor's invoices shall reflect the:

- Contractor's name
- Address
- Purchase order number
- Services performed during the preceding billing period
- Goods provided during the preceding billing period
- Waivers from all subcontractors

All invoices shall be submitted to **Ada Best, Administrative Officer**. Invoices in the proper form and approved by the Commission shall be paid by the Commission within thirty (30) days of receipt thereof. The Commission reserves the right to approve such invoices, in its sole discretion, and to request such detail and additional information as the Commission, in its discretion, deems appropriate.

2.3 In no event shall the total compensation paid to the Contractor under this Agreement exceed the amount of [AMOUNT] during the entire term of this Agreement including any renewals thereof.

3. **Term.**

3.1 This Agreement shall become effective when it has been properly signed by all parties hereto and shall continue through [DATE] (hereinafter defined as the "Initial Term"), at which time the Commission may exercise its option to renew set forth in Paragraph 3.2 below, unless sooner terminated pursuant to Paragraphs 5 and 7 hereof.

3.2 The Commission shall have the option of extending this Agreement for an additional three (3) years, in one-year increments, on the same terms and conditions, by providing written notice of its intent to extend to the Contractor.

4. **Contractor's Representations and Warranties.** The Contractor hereby represents the following:

4.1 The Contractor is a [CORPORATE STATUS], duly formed and validly existing under the laws of the State of Maryland and is qualified to do business and is in good standing in the State of Maryland.

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4.2 The Contractor has the power and authority to consummate the obligations and responsibilities contemplated herein and has taken all necessary action to authorize the execution, delivery and performance required under this Agreement.

4.3 The person executing this Agreement for the Contractor warrants that he is duly authorized by the Contractor to execute this Agreement on the Contractor's behalf.

4.4 The professional services to be provided under this Agreement shall be performed competently and with due care, and in accordance with all applicable laws, codes, ordinances and regulations. The goods to be delivered shall comply with the implied warranties of merchantability and fitness for use, and all express warranties created by this Agreement.

4.5 The Contractor has obtained and shall continue to maintain, at its own cost, such licenses and certifications as are necessary to provide the services rendered under this Agreement, and shall present such licenses to the Commission upon its request for the same.

4.6 All representations and warranties made in the Proposal response remain true and correct in all respects.

5. **Termination for Convenience.**

5.1 The Commission may terminate this Agreement, without cause, by providing written notice thereof to the Contractor at least thirty (30) days prior to the intended date of termination at the address set forth below, or at such other address as may be later designated by the Contractor in writing. The Contractor acknowledges that the absence of a reciprocal right of termination for convenience does not render this Agreement illusory or unenforceable.

5.2 In the event of termination, without cause, the Contractor shall be paid for all reasonable costs incurred by the Contractor up to the date of termination set forth in the written notice of termination. Payment shall be made in accordance with the provisions of Paragraph 2 of this Agreement.

6. **Insurance.**

The Contractor shall be required to provide insurance required by the Commission pursuant to the insurance requirements specified in Attachment B. The Contractor shall maintain the insurance coverages required by the Commission while this Agreement is in force, and provide documentation of such insurance in a form satisfactory to the Commission. Such documentation may, in the discretion of the Commission, be in the form of binders or declarations from the insurance company.

7. **Default.** The term "Default" as used in this Agreement shall mean the

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occurrence or happening, from time to time, of any one or more of the following:

7.1 **Representations and Warranties.** If any representation or warranty, expressed or implied, contained in this Agreement and in the Proposal shall prove at any time to be incorrect or misleading in any material respect either on the date when made or on the date when reaffirmed.

7.2 **Compliance with Covenants and Conditions.** If the Contractor shall fail to comply with the terms of any covenant, condition, agreement or any express or implied warranty contained in this Agreement.

7.3 **Performance of Contractual Obligations.** If the services hereunder are not performed in good faith and in accordance with the provisions of this Agreement and the delivery of the goods that are the subject of this Agreement is not being made in good faith and/or in accordance with the schedule which is attached hereto as Attachment A.

7.4 **Conditions Precedent to Any Disbursement.** If the Contractor is unable to satisfy any condition precedent to its right to receive a disbursement.

8. **Remedies for Default.**

8.1 The Commission shall have the right upon the happening of any Default, without providing notice to the Contractor:

- a. In addition to other available rights and remedies, to terminate this Agreement immediately, in whole or in part;
- b. To suspend the Contractor's authority to receive any undisbursed funds; and/or
- c. To proceed at any time or from time to time to protect and enforce all rights and remedies available to the Commission, by suit or any other appropriate proceedings, whether for specific performance of any covenant, term or condition set forth in this Agreement, or for damages or other relief, or proceed to take any action authorized or permitted under applicable law or regulations.

8.2 Upon termination of this Agreement for default, the Commission may elect to pay the Contractor for services provided and goods delivered up to the date of termination, less the amount of damages caused by the default. If the damages exceed the undisbursed sums available for compensation, the Commission shall not be obligated to make any further disbursements hereunder.

9. **Remedies Cumulative and Concurrent.**

No remedy herein conferred upon or reserved to the Commission is intended to

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be exclusive of any other remedies provided for in this Agreement, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or under this Agreement, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given to the Commission shall be concurrent and may be pursued separately, successively or together against the Contractor, and every right, power and remedy given to the Commission may be exercised from time to time as often as may be deemed expedient by the Commission.

10. **Confidential Information.**

The Contractor shall not disclose any documentation and information disclosed to the Contractor in the course of its performance of duties hereunder with respect to the past, present and future Commission business, services and clients without the express written consent of the Commission.

11. **Conflict of Interest.**

The Contractor certifies that the officer of the company who is executing this Agreement has read and understands the provisions of Section 901(a) of the Howard County Charter dealing with conflicts of interest and Section 22.204 of the Howard County Code dealing with conflicts of interest.

12. **Assignment.**

Neither the Commission nor the Contractor shall assign, sublet or transfer its interest or obligations under this Agreement to any third party, without the written consent of the other. Nothing herein shall be construed to create any personal or individual liability upon any employee, officer or elected official of the Commission, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties of this Agreement.

13. **Delegation of Duties.**

The Contractor shall not delegate the Contractor's duties under this Agreement without the prior written consent of the Commission.

14. **Indemnification.**

The Contractor shall indemnify and hold harmless the Commission, its employees, agents and officials from any and all claims, suits, or demands including attorney fees which may be made against the Commission, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by the Contractor or anyone under agreement with the Contractor to perform duties under this Agreement. The Contractor shall not be responsible for acts of gross

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negligence or willful misconduct committed by the Commission.

15. **Integration and Modification.**

This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by an authorized representative(s) of the party sought to be bound thereby.

16. **Governing Law.**

This Agreement shall be governed and construed in accordance with the laws of the State of Maryland.

17. **Conflicting Terms.**

17.1 The Contractor acknowledges that any Purchase Order issued on or after the effective date of this Agreement is hereby integrated and made a part of this Agreement, provided, however that if a conflict arises between the provisions of this Agreement and the Purchase Order, the provisions of this Agreement shall prevail.

17.2 In the event of a conflict between the Proposal and this Agreement, the provisions of this Agreement without the conflicting terms in the Proposal shall prevail.

17.3 In the event of a conflict between Attachment A entitled, "Services to be Performed/Goods to be Provided" and this Agreement, the provisions of this Agreement shall prevail.

18. **Severability.**

If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

19. **Time is of the Essence.**

Time is of the essence with respect to performance of the terms and conditions of this Agreement.

20. **Funding.**

The contractual obligation of the Commission under this Agreement is contingent upon the availability of appropriated funds from which payment for this Agreement can be made.

21. **Ownership of Goods.**

All finished or unfinished work, reports, or goods that are the subject of this Agreement including any licenses or consents acquired by the Contractor for performance

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hereunder, shall be and shall remain the property of the Commission.

22. **No Waiver, Etc.**

No failure or delay by the Commission to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, or covenant or of any such breach, or preclude the Commission from exercising any such right, power, or remedy at any later time or times.

23. **Warranty.**

The Contractor warrants the services and goods furnished to be of the highest quality, complying with the specifications and free from all defects whatsoever in workmanship and materials, for a period of one (1) year from the date of delivery. Replacements and repairs under this warranty are to be made by the Contractor at no cost to the satisfaction to the Commission.

Any material supplied by the Contractor shall carry a manufacturer's standard new material warranty. A labor and material warranty shall be submitted in writing with the proposal.

24. **Notice.**

Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered to the following address and individual or at such other address and/or such other individual a party may identify in writing to the other party:

FOR THE COMMISSION:

Thomas P. Carbo
6751 Columbia Gateway Drive
Columbia, MD 21046
(410) 313-6317

FOR THE CONTRACTOR:

[Name]
[Address]
[Telephone]

[SIGNATURES BEGIN ON NEXT PAGE]

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IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

WITNESS:

[CONTRACTOR]

Federal Identification No. _____

By: _____

NAME: _____

TITLE: _____

WITNESS:

Howard County Housing Commission,

By: _____

Thomas P. Carbo
Executive Director
Authorized Signatory

APPROVED FOR LEGAL SUFFICIENCY

County Solicitor

General Conditions for Non-Construction Contracts

U.S. Department of Housing and Urban
Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/31/2017)

Section I – (With or without Maintenance Work)

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 \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$100,000

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

During the performance of this contract, the Contractor 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

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.