

CENTRAL OFFICE:
Phone: 715-341-3444
Fax: 715-341-4656
Website: www.spha-wi.org
Facebook: [www.fb.com/StevensPointHA](https://www.facebook.com/StevensPointHA)

STEVENS POINT HOUSING AUTHORITY (SPHA)

1300 Briggs Court
Stevens Point, Wisconsin 54481



HI-RISE MANOR
MADISON VIEW APARTMENTS
SCATTERED SITE FAMILY HOUSING

Stevens Point Housing Authority (SPHA)

Request for Proposals (RFP) for Fee Accounting Services

RFP Proposal #: 2022-01



**Stevens Point
Housing Authority**

All proposals must be submitted and addressed to:

**Stevens Point Housing Authority (SPHA)
ATTN: Idowu Odedosu, Executive Director
1300 Briggs Court, Central Office
Stevens Point, WI 54481**

OR

**Via e-mail with subject title, “RFP: SPHA, Fee Accounting Services”
to Idowu Odedosu at iodedosu@spha-wi.org**

**Proposals must be received on or prior to
4:00 p.m. Central Standard Time (CST) on Friday, October 7, 2022.**

TABLE OF CONTENTS

Sections	Table of Contents	Page Numbers
1	Background and Introduction	Page 3
2	Reservation of Rights	Pages 3 - 4
3	Scope of Services	Pages 4 - 6
4	Proposal Submission	Page 7
5	Proposal Format	Pages 8 - 9
6	Price Proposal Templates	Pages 10 - 11
7	Evaluation Criteria	Page 12
8	HUD Mandatory Contract Provisions	Page 13
9	Attachments	Pages 14 – 28 • Form HUD 5369-B, Instructions to Offerors – Non-Construction • Form HUD 5369-C, Certifications and Representations of Offerors – Non-Construction Contract • Form HUD 5370-C, General Conditions for Non-Construction Contracts • Section 3 Policy

Stevens Point Housing Authority (SPHA)

Request for Proposals (RFP) for Fee Accounting Services

The Stevens Point Housing Authority (SPHA) in Stevens Point, Wisconsin, is soliciting this Request for Proposals (RFP) from accounting firms for fee accounting services for its programs identified below.

1. BACKGROUND AND INTRODUCTION

The Stevens Point Housing Authority (SPHA) is a public housing agency (PHA) that provides quality, affordable, and safe housing to low and moderate-income individuals and families in Stevens Point, Wisconsin. SPHA receives funding from the United States Department of Housing and Urban Development (HUD). SPHA's fiscal year-end is December 31st and SPHA maintains contractual arrangements with HUD to manage and operate its low-rent public housing program. Today, SPHA has 247 low-rent public housing units, which include 73 residential units at Hi-Rise Manor, 93 residential units and one non-dwelling unit at Madison View Apartments, and 80 single family, duplex, fourplex scattered homes within the City of Stevens Point, WI. SPHA has not adopted asset management and has not established a Central Office Cost Center (COCC). As part of its public housing program, SPHA receives an operating subsidy and capital fund grant awards each year for two asset management projects (AMPs).

SPHA is overseen by a local board of five commissioners, who live in Stevens Point, WI and have been appointed by the Mayor of Stevens Point. SPHA is currently managed by an Executive Director and seven (7) additional employees.

SPHA seeks Proposals from qualified firms (i.e., contractors/offersors) to provide general fee accounting services to the agency. It is expected that the fee accounting services will be performed in accordance with Generally Accepted Accounting Principles (GAAP) and the offerors must have thorough knowledge and experience with HUD rules and regulations as they pertain to financial matters. All proposals submitted in response to this solicitation must conform to all the requirements and specifications outlined within this document and any designated attachments in its entirety.

2. SPHA'S RESERVATION OF RIGHTS

SPHA reserves the following right in association with the RFP process and upon contract award.

1. **Right to Reject, Waive, or Terminate the RFP.** Reject any or all proposals, or to terminate the RFP process at any time, if deemed by SPHA, to be in its best interest.
2. **Right to Not Award.** Not to award a contract pursuant to this RFP.
3. **Right to Terminate.** Terminate a contract award pursuant to this RFP, at any time for SPHA's convenience upon 10 days written notice to the successful offeror(s).
4. **Right to Determine Time and Location.** Determine the days, hours, and locations that the successful offeror(s) shall provide the services called for in the RFP.
5. **Right to Retain Proposals.** Retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals.
6. **Right to Negotiate.** Negotiate the fees proposed by the offeror(s).

7. **Right to Reject Any Proposal.** Reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested services.
8. **No Obligation to Compensate.** Have no obligation to compensate any offeror(s) for any costs incurred in responding to this RFP.
9. **Unauthorized Sub-Contracting Prohibited.** The successful offeror(s)/contractor(s) shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of Stevens Point Housing Authority (SPHA). Any purported assignment of interest or delegation of duty, without the prior written consent of SPHA shall be void and may result in the cancellation of the contract with the SPHA or may result in the full or partial forfeiture of funds paid on the contract, as determined by the Agency.
10. **Project Staffing Changes.** Managers, other supervisory staff, and accountants may be changed if those personnel leave the firm, are promoted, or are assigned to another area. These personnel may also be changed for other reasons. However, in either situation, SPHA retains the right to approve or reject replacements.

3. SCOPE OF SERVICES

General Requirements

Firm(s) responding to this RFP must submit the following information in their proposals:

1. The qualification and experience of the firm with special emphasis on the HUD low-rent public housing program (Section 9).
2. Names and credentials of the people in the firm who will be assigned to SPHA and the percentage of time to be spent by each.
3. A listing of all housing authorities in Wisconsin and elsewhere currently under contract with the firm.
4. Evidence of professional liability coverage at not less than \$1,000,000 aggregate.
5. A description of the services that the firm offers in response to the Specific Requirements in the SCOPE OF SERVICES section outlined below.
6. A description of the experience of the firm with public housing- related computer software and computer systems.
7. An hourly rate by staff member times the total hours of time each is expected to work on the items outlined in the scope of services. Firms should also give a grand total cost along with a not-to-exceed (NTE) fee which should include travel costs.

Specific Requirements

The scope of services to be provided by the fee accountant will include:

1. **General Ledger and Subsidiary Ledger Entries**. Perform all operations necessary to maintain the general ledgers and subsidiary ledgers for the Stevens Point Housing Authority (SPHA), including the following services:
 - a. Reconcile bank statements on a monthly basis.
 - b. Prepare journal vouchers on a monthly basis.
 - c. Assist in coding checks.
 - d. Maintain the general ledgers on a monthly basis, including development of all entries.
 - e. Provide a detailed transaction register (receipts/disbursements) on a monthly basis.
 - f. Prepare all debt service entries.
 - g. Maintain investment and insurance registers.
 - h. Maintain property ledger/capitalized equipment (i.e., Fixed Asset and Depreciation Schedules).
 - i. Maintain capital funds subsidiary ledgers as required by HUD and subsidiary ledgers for any development funds or grant monies awarded.
 - j. Prepare all monthly, quarterly, semi-annual, and year-end financial statements and annual closing entries.
2. **Board Reports**. Provide the following financial reports for monthly and/or quarterly Board reports.
 - a. Prepare combined Balance Sheet and Income statements that list all the agency's programs and Asset Management Projects (AMPs). The Balance Sheet and Income Statements should be prepared in whole dollar and/or on a per unit cost (PUC) basis.
 - b. Prepare a consolidated Balance Sheet and Income Statement that reflects all programs administered by SPHA. The consolidated Balance Sheet and Income Statement shall list in separate columns all programs and AMPs in whole dollar and/or on a per unit (PUC) basis.
 - c. Year-end Only. Calculate potential PHAS score at SPHA's fiscal year end.
3. **Year-End Close**. Complete the close-out for the fiscal year, including:
 - a. Preparation of both the unaudited and audited Financial Data Schedule (FDS) to PIH-REAC for all necessary programs and business activities.
 - b. Prepare and submit any other required year-end financial forms and reports as required by HUD, including Management's Discussion and Analysis (MD&A).
4. **Operating Budgets**. Prepare Operating Budgets for all programs administered by the SPHA. Preparation of the SPHA's operating budgets shall include at least one (1) revision.
5. **Operating Subsidy**. Process all documents required for budget and operating subsidy preparation including subsidy calculation and utility estimates. Preparation of the SPHA's operating subsidy forms shall include at least one (1) revision.
6. **On-site Visits**. Schedule on-site visit(s) at the request of SPHA, in order to provide clarifications on financial matters related to questions posed by the members of the Board of Commissioners, the Auditor,

the Executive Director and/or other SPHA staff. The contractor will also be available as needed to answer questions that the auditor and/or HUD may have regarding the financial records of SPHA.

7. **Consultation and Assistance.** Provide advice to the Board of Commissioners, Executive Director, or other designated staff on SPHA's financial matters when requested. The work may include the following activities. Consultation and Assistance services including but not limited to the expected total hours and total costs must be approved by SPHA's Executive Director prior to services being rendered and billed.
 - a. Assistance, as needed, with the Agency's year-end closing outside of Task 3.
 - b. Assisting the Independent Auditor that performs the Agency's annual audit and help resolve any audit findings during the audit, if needed.
 - c. Recommend changes to general ledgers to be consistent with HUD protocol & GAAP, if necessary.
 - d. Review and advise on SPHA's internal control system in its accounting functions.
 - e. Training SPHA's staff and/or Board as needed, in HUD accounting and reporting requirements.
 - f. Advise the Executive Director and the Board of Commissioners of the financial implications on requested topics and participate in SPHA's planning efforts as requested.
 - g. Providing other "in-scope" accounting services, as requested by SPHA.

Optional Services:

8. **Internal Revenue Service (IRS) Forms.** If needed and requested, prepare forms for IRS reporting.
9. **Tenant Accounting:** If needed and requested, assist SPHA with various tenant accounting duties within SPHA's public housing software.
10. **Payroll:** If need and requested, assist SPHA with preparing and processing payroll for eight (8) SPHA employees and/or independent contractors.

NOTE: The proposed work will be financed in whole with Federal funds and therefore, all applicable Federal statutes, and regulations will apply to such work. It is expected that the majority of accounting services will be complete at the firm's work site and at SPHA's offices when needed and/or as requested.

4. PROPOSAL SUBMISSION

1. **Original proposals are to be submitted on or prior to Friday, October 7, 2022, at 4:00 p.m. CST via mail to:**

**Stevens Point Housing Authority (SPHA)
ATTN: Idowu Odedosu, Executive Director
1300 Briggs Court, Central Office
Stevens Point, WI 54481**

OR

Via e-mail or another secured electronic transmission with the subject title, “RFP: SPHA, Fee Accounting Services” to Idowu Odedosu, Executive Director, SPHA at iodedosu@spha-wi.org and will be received until Friday, October 7, 2022, at 4:00 p.m. CST.

2. Any proposal received/time-stamped after Friday, October 7, 2022, 4:00 p.m. CST time will be considered late. The time and date the proposal is received via mail in the office or via e-mail will serve as the time and date stamp.

NOTE: A facsimile copy (FAX) of a proposal is not acceptable.

3. The offeror should submit a signed original and one copy of its proposal.
4. No proposal may be withdrawn or modified in any way after the deadline for proposal submittal.
5. Proposals shall remain firm and valid for ninety (90) days from said deadline.
6. The proposal must be completed in their entirety, completing all forms included in the proposal packet. If the offeror should have any questions regarding the RFP, contact Idowu Odedosu, Executive Director, SPHA via e-mail at iodedosu@spha-wi.org no later than 4:00 p.m. CST on Friday, September 23, 2022.
7. Proposals are to be submitted in narrative form and are to include the Price Proposal Template included in this package.
8. Offerors may supplement their proposal with attached sheets for the purpose of adding or otherwise explaining any further conditions the offeror wish to have considered. Such supplemental attachments are to be considered items to be reviewed, accepted, rejected, and/or further considered by the evaluation committee.
9. Responses to questions must be made in writing before the deadline (see #6) for the submission of written questions.

5. PROPOSAL FORMAT

SPHA intends to award the contract pursuant to a “best value” basis, not a “lowest bid” basis. An evaluation committee consisting of members of the Board of Commissioners shall review and rank each of the offeror’s proposals using the method of evaluation described in this request. The evaluation committee shall enter into negotiations with the “best value” and/or highest ranked proposal first, and if necessary, any or all of the other proposals and submit the list of “best value” and/or ranked offerors to the Executive Director. The Executive Director shall make a recommendation to the Board of Commissioners to award a single contract to the most competent, responsive, and/or responsible offeror submitting a proposal in accordance with the proposal evaluation criteria.

SPHA reserves the right to award contracts to multiple offerors, to reject any or all bids, to waive for all applicants any information in the specifications or bidding process or to cancel in whole or in part this solicitation if it is in the best interest of the Agency to do so.

The awarded contract will be for one year with the option to renew in increments of one-year for four (4) additional years.

Part 1. Knowledge and Experience (Maximum Page Limit: 5 Pages). Provide background and introduction to the firm including address and contact information, information on the firm’s size, experience with HUD regulations and financial reporting requirements with respect to public housing and other programs administered by SPHA. Include information on the firm’s client portfolio and a description of the products and services that the firm provides.

The offeror shall identify whether or not subcontractors will be used for the engagement, if awarded, and/or if the proposal is a joint venture with another firm. All information required from the offeror must also be included for any major subcontractors or from any joint venture.

Part 2. Management and Staffing Plan (Maximum Page Limit: 10 Pages). Provide a management plan that describes the firm’s approach to providing the required services, method of assigning work, and procedures for reviewing and ensuring quality control of services provided. Provide a staffing plan that identifies key personnel and other staff that would be assigned to this engagement. Provide resumes for key personnel. Provide brief biographies along with job titles and duties to be performed on this engagement for all proposed staff. If the firm is unable to provide any of the requested services, specifically identify those exceptions.

Part 3. References. Provide at least five (5) references of housing authorities who operate low-rent public housing units in Wisconsin and/or elsewhere currently under contract with the firm or clients served within the past three (3) years for whom the offeror has performed similar services to those described in the RFP. The list shall include the: client’s name, client’s contact name, client’s telephone number, client’s e-mail address, the date the service(s) was provided, and a brief narrative description and scope of the service(s), including key personnel and contract value.

Part 4. Licensing and Insurance Requirements. Prior to award, but not as part of the proposal submission, the successful contractor will be required to provide the following documents.

- a. If applicable, evidence that the key personnel that will be reviewing all work performed under the engagement is licensed as a certified public accountant.
- b. An original certificate evidencing the contractor’s current industrial (worker’s compensation) insurance carrier and coverage amount.

- c. An original certificate evidencing the contractor's General Liability coverage.
- d. An original certificate evidencing the contractor's Professional Liability and/or "errors and omissions" coverage.
- e. A copy of the contractor's business license allowing the entity to provide such services within the jurisdiction.
- f. If applicable, a copy of the contractor's license issued by the State of record allowing the contractor to provide the services provided in the RFP.

Part 5. Price Proposal Template. Submit a price proposal for the base year and four option periods according to the instructions and template provided.

Part 6. Sample Agreement. Submit a sample agreement that would serve as a basis of execution for providing the fee accounting services between SPHA and the offeror. The agreement would cover items such as what accounting data, the form of that data, and when the data is expected from SPHA to the offeror and when reports, schedules, financial statements, and/or board reports are due to SPHA.

Part 7. HUD Form 5369-B, Instructions to Offerors, Non-Construction. Read and initial each page indicating that you have read and agree with the contents.

Part 8. HUD form 5369-C, Certifications and Representations of Offerors, Non-Construction. Read and initial each page indicating that you have read and agree with the contents.

Part 9. HUD Form 5370-C, General Contract Conditions, Non-Construction. Read and initial each page indicating that you have read and agree with the contents.

Part 10. Section 3 Business Requirements. To be provided in accordance with the PHA's procurement policy and procedures.

Part 11. Hold Harmless Agreement. Submit an agreement that states the contractor shall indemnify and hold harmless SPHA and its employees from and against all claims for personal injury or property damage.

Part 12. Sample Monthly Financial Statements and Board Reports. Example of financial statements and Board reports to be produced and provided monthly to SPHA.

The RFP contains submission requirements, scope of services, period of services, terms and conditions, and other pertinent information for submitting a proper and responsive proposal. **Prospective offerors requiring any explanation or interpretation of the solicitation must request it in writing no later than 4:00 pm CST on Friday, September 23, 2022. The request must be addressed to Idowu Odedosu, Executive Director, SPHA at the following e-mail address: iodedosu@spha-wi.org.**

6. PRICE PROPOSAL TEMPLATES

Annual and Monthly Pricing

The price proposal template provided below is required to be provided for Year 1 (Base Year) and each of the four option periods. Offerors are instructed to complete the template for Year 1 and then duplicate the template and update /complete it for the four option years, if exercised.

For the base year and each option period, for each proposed personnel, provide the labor category, hourly rate, and estimated hours to be performed for the engagement for Tasks 1 through 11.

Table 1. Rate, Hours, and Total Cost by Staff – Year 1 Period				
Staffing	Labor Category	Year 1 Hourly Rate	Year 1 Hours	Year 1 Total Cost
Name of Lead Contractor Firm				
Name 1	Partner - Principal	\$13.00	10	\$130.00
Name 2	Sr. Accountant	\$10.00	10	\$100.00
Name 3	Junior Accountant	\$8.00	10	\$80.00
			Subtotal, Lead Firm	\$310.00
Name of Subcontractor Firm (if applicable)				
Name 4	Sr. Accountant	\$6.00	5	\$30.00
Name 5	Junior Accountant	\$4.00	5	\$20.00
			Subtotal, Subcontractor	\$50.00
			Total Annual Fee	\$360.00
			Total Monthly Fee	\$30.00

Table 2 summarizes the Scope of Services requested and the annual quantity expected. The contractor will invoice, and SPHA will pay the contractor monthly a firm fixed price as shown in the offeror's Table 1 (Total Monthly Fee).

Table 2. Scope of Service Tasks and Annual Quantity		
Task #	Task Name	Quantity
1	General Ledger & Subsidiary Ledger Entries	12
2	Board Reports	12
3	Year End Close	1
4	Operating Budgets	2
5	Operating Subsidy (Two AMPs)	3
6	On-Site Visits	As Needed & Not to Exceed (NTE): \$XXX
7	Consultation and Assistance	As Needed & (NTE): \$XXX
8	IRS Forms	As Needed & (NTE): \$XXX
9	Tenant Accounting	As Needed & (NTE): \$XXX
10	Payroll	As Needed & (NTE): \$XXX
11	Reimbursable Travel	NTE: \$XXX

Other Pricing Information – Consultation and Assistance Services

The price proposal template provided below is required to be provided for Year 1 (Base Year) and each of the four option periods. Offerors are instructed to complete the template for Year 1 and then duplicate the template and update /complete it for the four option years, if exercised.

For the base year and each option period, for each proposed personnel, provide the labor category, hourly rate, and estimated hours to be performed for Consultation and Assistance services. The number of hours in the base period or any of the option periods should not exceed 100 hours. Consultation and Assistance Services must be approved by SPHA prior to services being rendered and billed.

Invoicing for this task should be supported by information similar to this information requested in the Table 3 along with a narrative of the task performed. Pricing for this service will be billed at the rate shown in the offeror's table 3.

Table 3. Rate, Hours, and Total Cost by Staff – Task 7: Consultation and Assistance Services				
Year 1 Period				
Staffing	Labor Category	Year 1 Hourly Rate	Year 1 Hours	Year 1 Total Cost
Name of Lead Contractor Firm				
Name 1	Partner - Principal	\$13.00	10	\$130.00
Name 2	Sr. Accountant	\$10.00	10	\$100.00
Name 3	Junior Accountant	\$8.00	10	\$80.00
			Total Hours (NTE 100)	
			Total Annual Fee	\$360.00
			Total Monthly Fee	\$30.00

Estimated Travel Cost. Provide the estimated travel based on a one (1) day on-site visit. Reimbursement for travel costs will be in accordance with the SPHA's travel policy which is to reimburse for meals and incidentals and lodging based on the Federal government per diem rate.

Table 4. Other Reimbursable Expenses					
Item	Estimated Cost – Base Year	Estimated Cost – Option Period 1	Estimated Cost – Option Period 2	Estimated Cost – Option Period 3	Estimated Cost – Option Period 4
Transportation (most economic)	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Lodging	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Federal Per Diem Rate	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Other Expenses (Please Specify)	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Total Expenses	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00

7. EVALUATION CRITERIA

SPHA intends to award the contract to the successful offeror(s) pursuant to a “Best Value” basis. An evaluation committee will review and rank each proposal using the evaluation factor and point system shown. The award of points for each listed factor will be based upon the documentation that the offeror submits with the proposal.

#	Evaluation Factor	Maximum Points
1	Knowledge and Technical Expertise. Demonstration of in-depth knowledge of HUD accounting and regulations specific to Housing Authority programs.	30
2	Management and Staffing. The offeror’s proposed management plan for assigning and overseeing the work and the proposed staffing and proposed hours provides for quality services and ensure quality control of the services to be provided.	25
3	Firm’s Prior Experience in Related Areas. Documentation of successful experience in providing the services specified in RFP as evidenced by the references provided by the offeror for similar services of a sample of their other clients and peer review, if applicable.	25
4	Price. The offeror’s proposed monthly estimated cost seems reasonable based on the services requested and the offeror’s management and staffing plan for each of the requested year(s).	20
	Total Points	100

Once each offeror’s proposal has been evaluated and ranked, final negotiations will be scheduled for the “best value” and/or top ranked offeror. If the final negotiation is successful, the Executive Director will make a recommendation to the Board of Commissioner to award a single contract to that offeror. The Board may require additional information or negotiations before the Board will approve an award of the contract.

Should negotiations with the selected offeror become unsuccessful, SPHA reserves the right to cease negotiations with the offeror. In the event of cessation of negotiations with the first selected offeror, SPHA reserves the right to either enter into similar interviews and negotiations with the next highest ranked offeror or take other action as it deems most beneficial.

8. HUD MANDATORY CONTRACT PROVISIONS

HUD requires that certain contract provisions be contained in the contract. These contract provisions should be provided as part of the procurement package. HUD has provided the mandatory contract clause provisions as Public and Indian Housing (PIH) forms, which can be searched via the internet by the PIH form number and simply attached to the procurement proposal or the PHA may type the clauses into the procurement package.

HUD Mandatory Contract Provisions

1. Form HUD 5369-B, Instructions to Offerors – Non-Construction
2. Form HUD 5369-C, Certifications and Representations of Offerors – Non-Construction Contract

(Optional) Form HUD 5370-C, General Conditions for Non-Construction Contracts

While not mandatory, HUD highly recommends the use of Form HUD 5370-C, General Conditions for Non-Construction Contracts. This form provides 18 other contract provisions that protect the PHA's interests, via clauses such as handling disputes with the offeror, termination of the contract for convenience and default and provides other federal requirements that may not be known to some offerors, such as Equal Employment Opportunities requirements and conflicts of interest.

If the PHA elects not to include the contract provisions, the PHA should review the form and determine if the PHA should modify and include many of these contract provisions by adding them to the PHA contract provisions section of the procurement package.

As a reminder, when reviewing Form HUD 5370 – C, PHAs should specifically look at the PHA's contract provisions that mirror or are similar to those contract clauses in the HUD Form 5370-C. In the event of duplicate or similar contract provisions, the PHA should modify the provisions into one clause as the PHA deems most proper.

Attachments

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 and 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:]

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)

- | | |
|---|---|
| ☐ Black Americans | ☐ Asian Pacific Americans |
| ☐ Hispanic Americans | ☐ Asian Indian Americans |
| ☐ Native Americans | ☐ 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:

General Conditions for Non-Construction Contracts

Section I — (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (excl. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour 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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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 \$250,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$250,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$250,000 — use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$250,000

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 111, 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
 - () 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.

(v) 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.

(i) 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/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The [contractor/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The [contractor/seller] will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor/seller or vendor. The [contractor/seller] will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the [contractor/seller] becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the [contractor/seller] may request the United States to enter into such litigation to protect the interests of the United States.

17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Brail or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

18. 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.

19. 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.

20. 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.

21. Liens

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

22. 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 75, 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 75 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 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, 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 75. 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 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

23. 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

ASSISTANCE TO SMALL AND OTHER BUSINESSES

Required Efforts

Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, all feasible efforts shall be made to ensure that small and minority-owned businesses, women's business enterprises, and other individuals or firms located in or owned in substantial part by persons residing in the area of the SPHA project are used when possible. Such efforts shall include, but shall not be limited to:

- A. Including such firms, when qualified, on solicitation mailing lists;
- B. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- E. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- F. Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in **24 CFR Part 135** (so-called Section 3 businesses); and
- G. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.

Goals shall be established periodically for participation by small businesses, minority-owned businesses, women-owned business enterprises, labor surplus area businesses, and Section 3 business concerns in SPHA prime contracts and subcontracting opportunities.

Definitions

1. A **small business** is defined as a business that is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in **13 CFR Part 121** should be used to determine business size.
2. A **minority-owned business** is defined as a business which is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. Minority group members include, but are not limited to Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and Hasidic Jewish Americans.
3. A **women's business enterprise** is defined as a business that is at least 51% owned by a woman or women who are U.S. citizens and who control and operate the business.

4. A “**Section 3 business concern**” is as defined under **24 CFR Part 135**.
5. A **labor surplus area business** is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in **20 CFR Part 654**, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.

BOARD APPROVAL OF PROCUREMENT ACTIONS

Other than approval of this Procurement Policy, approval by the Board of Commissioners is not required for any procurement action, as permitted under State and local law. Rather, it is the responsibility of the Executive Director to make sure that all procurement actions are conducted in accordance with the policies contained herein.

DELEGATION OF CONTRACTING AUTHORITY

While the Executive Director is responsible for ensuring that the SPHA’s procurements comply with this Policy, the Executive Director may delegate all procurement authority as is necessary and appropriate to conduct the business of the Agency.

Further, and in accordance with this delegation of authority, the Executive Director shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this Policy. The Executive Director shall also establish a system of sanctions for violations of the ethical standards described in Section III below, consistent with Federal, State, or local law.

DOCUMENTATION

The SPHA must maintain records sufficient to detail the significant history of each procurement action. These records **shall** include, but **shall not** necessarily be limited to, the following:

- A. Rationale for the method of procurement (if not self-evident);
- B. Rationale of contract pricing arrangement (also if not self-evident);
- C. Reason for accepting or rejecting the bids or offers;
- D. Basis for the contract price (as prescribed in this handbook);
- E. A copy of the contract documents awarded or issued and signed by the Contracting Officer;
- F. Basis for contract modifications; and
- G. Related contract administration actions.

The level of documentation should be commensurate with the value of the procurement.

Records are to be retained for a period of three years after final payment and all matters pertaining to the contract are closed.