

**JEFFERSON PARISH HOUSING SERVICES DEVELOPMENT
DISTRICT**

REQUEST FOR PROPOSALS

FOR

GRASS CUTTING SERVICES

RFP NUMBER: 2024-02

SUBMISSIONS DUE: November 21, 2024 10:00 AM CDT

Prepared By:

**JPHSDD
121 Paillet Drive
Harvey, LA 70058**

**Dorian Rawles
Executive Director**

Issue Date: October 30, 2024

**JEFFERSON PARISH HOUSING SERVICES DEVELOPMENT
DISTRICT REQUEST FOR PROPOSALS FOR GRASS CUTTING
SERVICES RFP #2024-02**

CONTRACT ADMINISTRATOR: Dorian Rawles, Executive Director

PROPOSAL DUE BY: 10:00 AM Central Daylight Time, November 21, 2024

SCOPE OF SERVICES: AS DESCRIBED IN PART III OF THIS REQUEST FOR PROPOSALS

Special Instructions:

1. All required submitted documents shall be submitted as per the Advertisement For Proposals.
2. See attached *Instructions to Offerors* (Form HUD-5369-B).
3. See attached *General Condition for Non-Construction Contracts*, Sections I and II.
4. Provide executed attached *Proposal Form*.
5. Provide executed attached *Certification of Contractor Non-Exclusion*.
6. Provide executed attached *Contractor's Summary*.
7. Provide executed attached *Non-Collusive Affidavit*.
8. Provide executed attached *Acknowledgement of Addenda*.
9. See attached Contract General Conditions and Supplemental Conditions.
10. Please submit questions by e-mail to D'Andre Williams, d'andre@jphsdd.org. The deadline for submission of questions is noon, Central Daylight Time, November 14, 2024; questions submitted after this deadline may remain answered.
11. Offerors shall read the entire text of this RFP document, including all attachments.
12. In this RFP (including attachments), the terms, "Offeror", "Proposer", "Contractor" and "Bidder" are synonymous.

**JEFFERSON PARISH HOUSING SERVICES DEVELOPMENT
DISTRICT REQUEST FOR PROPOSALS FOR GRASS CUTTING
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PART I:**

INTRODUCTION AND ADVERTISEMENT FOR PROPOSALS

The Jefferson Parish Housing Services Development District (JPHSDD) is hereby requesting sealed proposals from qualified and experienced businesses to perform grass cutting services at the JPHSDD's properties. The contract resulting from this Request For Proposals (RFP) shall provide for grass cutting services at fixed prices throughout the term of the contract.

Proposals will be received by the JPHSDD until 10:00 AM, Central Daylight Time (CDT) on November 21, 2024.

Proposers shall deliver three (3) complete hardcopy sets (one original clearly marked or stamped "original" and two photocopies) of the required submittals in a sealed envelope, addressed to:

JPHSDD
Attn: Grass Cutting Services
121 Paillet Drive
Harvey, LA 70058

Place the following information on the outside of the envelope in the upper, left-hand corner:

Proposer Company Name
Proposer Company Address
RFP Number
Proposal Due Date and Time

All responses submitted are subject to these Instructions and Supplemental Instructions to Offerors, General and Supplemental Conditions, and all other requirements contained in the RFP documents – all of which are made a part of this Request for Proposals by reference.

The Jefferson Parish Housing Services Development District reserves the right to reject any or all proposals for just cause and to waive any informalities in the submission process if it be in the public interest to do so.

Jefferson Parish Housing Services Development District
Dorian Rawles, Executive Director

**JEFFERSON PARISH HOUSING SERVICES DEVELOPMENT
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PART II -- GENERAL BACKGROUND INFORMATION

The Jefferson Parish Housing Services Development District (JPHSDD) is requesting proposals from businesses to maintain, mow, trim, perform weed removal, and remove debris at all of its properties. The planted areas and walkways shall be cleared of excess trash before mowing and trimming. The trash, grass and rubbish will be the responsibility of the contractor to dispose of properly according to all applicable local, State and Federal regulations.

Accordingly, the successful Contractor will be required to guarantee and warrant that they have sufficient experienced, expertise, and employees necessary to accomplish said objective in his/her quote. The successful offeror will be required to furnish all equipment, including oil and gasoline for equipment. Equipment shall not be left unattended at any of the locations, and shall be removed from the work sites daily. The successful Contractor must provide its own vehicles for transporting equipment to and from work sites. If needed, the Contractor will be responsible for providing traffic controls during the performance of services. The selected Contractor will be responsible for any and all damages to real property caused by its employees, sub-contractors, and/or equipment.

The Contractor shall provide excellent workmanlike conduct while performing all work, furnishing supplies, materials, machinery, equipment, and labor necessary to properly perform and complete all the work required routinely, twice a month by this solicitation.

CONTRACTOR QUALIFICATIONS/REQUIREMENTS

Businesses responding to this request must provide documentation that they meet the following requirements:

- Businesses must comply with all general requirements set forth in the JPHSDD procurement procedures including, but not limited to, the provision of adequate insurance coverage consisting of business general liability, automotive, and worker's compensation insurance policies. The JPHSDD, its employees, and its Board of Directors shall be certified as additional insured entities on the business general liability policy prior to execution of a contract.
- Businesses must demonstrate sufficient capacity to accomplish tasks outlined in this request and should be comprised of sufficient individuals to carry out the requirements.
- Individuals performing work under this request must have the ability to perform the required tasks, including knowledge of the necessary techniques and physical health that will not interfere with the requirements.
- Respondents must be incorporated prior to the execution of the contract. Officers and supervisors must be designated and identified by name.
- Responding businesses shall submit certified copies of any State, County, or Municipal licenses that may be required of the business to engage in the type of business activity for which it was formed. Where applicable (as for example, in the case of corporations), the business also shall submit a certified copy of its corporate charter or other organizational document that verifies that the business was properly formed in accordance with State law.

PART III -- SCOPE OF SERVICES

The selected respondent shall furnish sufficient organization, equipment, supplies, and qualified personnel to perform the following services:

Initial Inspection -- The contractor shall perform an inspection of all work areas immediately after execution of the contract, to identify all pre-existing conditions that would prevent or adversely affect the performance and completion of normal and routine maintenance work.

Upon completion of the inspections, the contractor shall prepare a written report listing all such conditions and deficiencies and submit to the for review. JPHSDD shall determine appropriate courses of action on a case by case basis, which will include, but will not be limited to additional compensation for extra work, waiver of work in specific areas, contract modifications, etc. All repair or restoration work deemed necessary by JPHSDD shall be completed prior to the start of normal maintenance for the specific areas.

Contract Monitoring and Compliance -- Work shall be monitored by the JPHSDD. In the event that work is not performed in compliance with the contract, the Contractor will be given an opportunity to correct the deficiency. If the work is not corrected in the specified amount of time, JPHSDD will withhold funds due to the Contractor until the work has been completed. Time limits for correction are as follows:

Weed Control	3 working days
Mowing	2 working days
Debris Removal	2 working days

SPECIFICS:

The Grass Cutting Services shall include the following requirements:

- 1. Work Performance** -- The performance of all routine landscaping services including mowing and lawn care, edging, blowing litter and debris removal, pruning, removal of dead vegetation and hand weeding.
- 2. Mowing** -- Turf areas will be cut as follows:
 - o Cool season grasses will be cut three to four inches (3"-4"). Frequency will be Semi-Monthly at a minimum during the growing season and as needed during dormant periods. The JPHSDD may determine whether Contractor performs one or two cuts during months in the dormant period, and the JPHSDD may determine which months are within the dormant period. The JPHSDD shall provide the Contractor with reasonable advance notice of any such determinations.
 - o Warm season grasses will be cut one to two inches (1"-2"). Frequency will be Semi-Monthly at a minimum during growing season and as needed during dormant periods.
 - o The selected contractor shall exceed the minimum required cutting frequencies as required to prevent grass height from exceeding 6" at any time.
 - o Grass clippings shall be collected and removed as debris, unless otherwise approved in writing by JPHSDD. In the event that grass clippings are removed by means other than the use of grass catchers (except when reel mowers are used), safety devices must be used on discharge mowers. Removal of grass clippings shall not in itself constitute completion of cleaning.
 - o All sidewalks, walkways, off-street parking areas, etc. will be power edged and cleared of grass clippings. Any excessive grass clippings will be raked, cleared, and disposed of properly away from the property.
- 3. Edging** -- The Contractor shall be responsible for edging all curbs, walkways, and planting bed edges with a power edger, edge perimeter streets, both sides of walkways, and curbs. All completed edges will have a perpendicular appearance between turf and hard lines and between turf and bed lines. A clean, trenched line shall be provided between grass and mulched areas. Care should be taken not to injure

trunks or plant materials or to damage property fixtures such as light bollards, signage or personal property such as resident vehicles.

4. **Monofilament Trimming (also called “Lawn Edging” and “Edge Trimming”)** – Along with each mowing operation, the Contractor shall use a weed eater or similar trimming tools to trim grass and or weeds that cannot be mowed with a larger machine.
5. **Debris Removal/Policing** -- The Contractor shall perform policing of all maintained areas for the removal of paper, cans, bottles, sticks, food containers, cigarette butts, leaves, any and all other debris in conjunction with service visits. Areas to be cleaned shall include all public areas of property including property perimeter and adjacent parking lots. Blowing or raking debris, leaves, grass clippings, or other matter into the street is not permitted. All storm drains, ditches, culverts, etc. within limits of work will be kept free of litter, grass clippings, branches, etc.
6. **Leaf Removal** -- Fallen leaves on lawn and planted bed areas shall be collected and removed from property not less than four (4) times per year as requested by JPHSDD. This is to be done from the beginning of November through February, or until leaf disbursement ceases. The Contractor will disburse leaves from focal areas and turf areas as required to prevent heavy buildup and damage to plant matter and turf by smothering.
7. **Miscellaneous Trimming** --
 - Trim around all buildings
 - Blow off sidewalks, walkways, and curbs and pick up grass clippings
 - Trim down grass growing through joints in sidewalks and curbs
 - Trim down grass growing beside curbs

PERFORMANCE:

The Contractor shall provide all workers, equipment, and supplies required to perform the specified grass cutting services as specified in this Request for Proposals. Specifications include the following bulleted items:

- Proper safety procedures shall be strictly adhered to during mowing of all areas. If mowing is required around cars and/or pedestrian areas, extra precautions shall be taken to protect against flying debris.
- The selected contractor will have a well-stocked first aid kit available at all JPHSDD sites where work is being performed, and shall show this kit to JPHSDD personnel whenever requested.
- The selected contractor will be solely responsible and held liable for any claims and/or damages arising from any action or lack of action arising from reckless, negligent, or careless behavior to real property by its employees.
- The selected contractor will be responsible for all areas around and within the perimeter of the property boundary.
- The selected contractor will be responsible for all common courtyard and grassy strips throughout indicated property.
- The selected contractor will be responsible for all public areas of property including property perimeter and adjacent parking lots shall be cleaned.
- The selected contractor shall take care to avoid causing damage to JPHSDD property including building exteriors, air conditioning equipment, insulation as air conditioning refrigerant & suction lines, splash blocks at downspouts, trees, shrubs, bedding plants, mulch, plumbing system components, natural gas system components, drainage grates, cleanouts, signs, fencing, and gates.
- The selected contractor shall take care to keep grass trimmings, leaves, and other debris from entering storm water drainage systems (including JPHSDD systems and systems in the public right of way).
- All of the selected contractor’s personnel shall wear uniforms bearing the name of the selected contractor whenever performing the contracted work.
- The selected contractor shall identify a Key Contact who shall be an employee or officer of the contractor company authorized to communicate on behalf of the contractor company with the JPHSDD.
- Work may not be performed on Sundays, Federal holidays, or State holidays unless authorized in writing by the Contracting Officer.

The grass shall be cut a minimum of two times per month during the growing season throughout the contract period. The grass shall be cut more frequently if required to keep the grass under the maximum height specified in this RFP. During the growing season, cuts shall be made no more than 14 days apart. **The tentative schedule dates of cuts for the duration of the contract (excluding optional renewal periods) shall be submitted within seven (7) calendar days of the contract execution.** The provided schedule shall be reviewed for approval and strictly adhered while weather permits. If unable to follow the schedule, the contractor shall immediately notify the JPHSDD Contract Administrator to determine a schedule modification acceptable to the JPHSDD.

Additional work may be performed by the Contractor at additional charge only as mutually agreed upon in writing by the parties to this Agreement.

PART IV -- SUBMISSION REQUIREMENTS

Proposal Form

The respondent shall complete the Proposal Form, contained in Appendix A, which includes the following information:

- Provide a brief history of your organization.
- List the names of your employees and officers who will work on this contract.
- Describe your company's previous relevant experience in performing similar services.
- List business references on three (3) existing or completed work projects which are similar to or support your company's ability to successfully complete the scope of work, as described in this Request for Proposals.
- Provide insurance certificates currently in effect and in force; attach a copy of each as indicated on the Proposal Form.
- List equipment that is owned and operable and will be used in connection with this project. Include the quantities and models. This list shall include motor vehicles required for transportation of personnel and other equipment.

Fee Proposal

On the forms provided in Appendix B, please indicate the fees for completing the work in accordance with the scope of services. Complete the Fee Proposal Form, contained in Appendix B. The proposal cost should include all costs (labor, materials, equipment, travel, overhead, profit, administration fees, etc.) associated with the provision of all services requested.

All prices must be submitted on the forms provided. Failure to provide prices for each item on the cost proposal form may result in the proposal being deemed non-responsive, and subsequently disqualified.

Required Certificates & Forms

The following documents, which are contained in this RFP, must be included in the proposal and must be properly executed and/or notarized as indicated on each document.

- Certification of Contractor Non-Exclusion
- Contractor's Summary
- Non-Collusive Affidavit
- Acknowledgement of Addenda
- Fee Proposal Form

PART V -- PROCUREMENT PROCESS

All proposals received in response to this solicitation and received on time will be evaluated. Any and all proposals that fail to meet the submittal requirements may be disqualified. Proposals that appear to meet the submittal requirements established in the RFP will be evaluated by the JPHSDD using a points-based system as indicated below.

The evaluation process may also include negotiations, interviews, and/or presentations with the Respondents who rank highest in the points-based evaluation process. The purpose of the negotiations/interviews is to promote the understanding of JPHSDD's requirements with respect to the RFP, promote the understanding of the Respondents' proposals, and to arrive at agreeable contract terms. Upon completion of the negotiations/interviews, JPHSDD will establish a common date and time for submission of best and final offers. Best and final offers will be evaluated in accordance with the same points-based system mentioned previously. The initial proposal submitted by Respondents who do not submit a best and final offer shall be construed as their best and final offer.

The JPHSDD will award a contract resulting from this solicitation to the responsible Offeror whose offer, conforming to the solicitation, will be most advantageous, price and other technical factors specified herein considered. JPHSDD reserves the right to make contract award without negotiations, and to decline to enter into negotiations should it believe that no respondent to the RFP will be capable of delivering the necessary level of services within an acceptable price range and/or time period. Should the JPHSDD exercise its right to make contract award without negotiations or to forego negotiations, the selection of a Respondent for award of the contract will be based on the initial proposals received.

Evaluation Criteria

Proposals (and Proposers) that fail to meet the minimum requirements stated in this RFQ may be disqualified. All proposals that are not disqualified shall be scored on a 0-to-100-point scale as itemized below.

PROPOSAL FORM

- Proposed Cost 60 Points
- Staffing/Equipment/Qualifications/References 40 Points

Total Possible Points 100 Points

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SUPPLEMENTAL CONDITIONS

CONTRACT PERIOD

The initial contract shall be for one (1) year from the date on contract execution with two (2) one-year option renewal periods. The option shall only be exercised if the Contractor has satisfactorily performed under the contract. Contract extensions will not be automatic and must be approved by JPHSDD and/or the U.S. Department of Housing and Urban Development.

CONTRACT TYPE/AMOUNT

It is anticipated that the contract resulting from this RFP is a requirements type contract, which shall provide for grass cutting services, as defined in the Scope of Services, at fixed prices throughout the term of the contract.

REPORTING

The Contractor shall be responsible for submitting regular reports detailing his/her compliance with the conditions of this contract in the format prescribed by and the intervals required by JPHSDD. Reporting shall include evidence of implementation of quality control measures.

INSURANCE

Prior to execution and commencement of the contract resulting from this RFP, the selected Respondent shall procure and maintain at all times and at its own expense, insurance coverages as indicated in the Request for Proposals. Insurance coverages shall include

- Commercial General Liability with minimum limits of liability of \$1,000,000 Bodily Injury and \$1,000,000 property damage.
- Worker's Compensation with statutory limits of liability.
- Automobile insurance with minimum limits of liability of \$500,000

The successful bidder shall be required to furnish the JPHSDD, original Certificates of Insurance evidencing the required coverage to be in force on the date of the contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverage has an expiration or renewal date occurring during the term of this contract or extensions thereof. The receipt of any certificate does not constitute agreement by JPHSDD that the insurance requirements in the contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all contract requirements. The insurance policies shall provide for sixty (60) days, prior written notice to be given to JPHSDD in the event coverage is substantially decreased, canceled, or non-renewed. JPHSDD shall be named as a Certificate Holder on the Commercial General Liability policy.

INVOICING

Original invoices shall be submitted to the JPHSDD to the attention of the Assistant Director. Invoices shall be submitted monthly. The invoice shall provide an invoice number, service dates, purchase order number (if the JPHSDD issues a purchase order) and description of services provided. Invoices shall be submitted on the Contractor's own invoice form.

TERMINATION FOR CONVENIENCE AND DEFAULT

(a) JPHSDD 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). JPHSDD shall terminate by delivering 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 JPHSDD all information, reports, papers, and other material accumulated or generated in performing this contract, whether completed or in process. (b) If the termination is for the convenience of JPHSDD, JPHSDD 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), JPHSDD may (i) require the Contractor to deliver to it, in the manner and to the extent directed by JPHSDD, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the General Conditions for Non- Construction Contracts, Clause 2; (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 JPHSDD; (iii) withhold any payments to the Contractor for the purpose of off-set or partial payment, as the case may be, of amount owed to JPHSDD 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 JPHSDD, 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.

INDEMNIFICATION

The successful Respondent will be required to protect, defend, indemnify, keep, save, and hold JPHSDD, its officers, officials, employees and agents free and harmless from and against any and all liabilities, losses, penalties, damages, settlements, environmental liability, costs, charges, professional fees or other expenses or liabilities of every kind, nature and character arising out of or relating to any and all claims, liens, demands, obligations, actions, suits, judgments and settlements, proceedings or causes of action of every kind, nature, and character (collectively, "claims") in connection with or arising directly or indirectly out of the actions or omissions and/or the performance thereof by the successful Respondent, its officers, officials, agents, employees, and subcontractors, including, but not limited to, the enforcement of the indemnification provision. The successful Respondent will be further required to investigate, handle, respond to, provide defense for and defend all suits for any and all claims, at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims are considered groundless, false, or fraudulent.

JPHSDD will have the right, at its option and at its expense, to participate in the defense of any suit, without relieving the successful Respondent of any of its obligations under this indemnity provision. The indemnities to be set forth in the contract resulting from the RFP will survive the expiration or termination of that contract.

RULES, REGULATIONS, and LICENSING REQUIREMENTS

Each Respondent and its staff must possess all of the required State of Louisiana licenses as well as all other licenses required by local and State law.

2. List of Employees. An additional page may be provided.

Name	Position

3. Describe previous relevant experience in performing similar services. An additional page may be provided.

4. Business References (Provide information on three (3) existing or completed projects which are similar to, or support your company's ability to successfully complete the scope of work.)

AGENCY/COMPANY NAME:	TELEPHONE NUMBER:	DOLLAR AMOUNT:
PROJECT DESCRIPTION:	CONTACT PERSON NAME: TITLE:	DATE STARTED: DATE COMPLETED:
AGENCY/COMPANY NAME:	TELEPHONE NUMBER:	DOLLAR AMOUNT:
PROJECT DESCRIPTION:	CONTACT PERSON NAME: TITLE:	DATE STARTED: DATE COMPLETED:
AGENCY/COMPANY NAME:	TELEPHONE NUMBER:	DOLLAR AMOUNT:
PROJECT DESCRIPTION:	CONTACT PERSON NAME: TITLE:	DATE STARTED: DATE COMPLETED:

5. Provide proof of insurance coverage:

Insurance Certificates (Attach Certificate of Insurance or a Declarations Page for each type of insurance:

- Commercial General Liability with minimum limits of liability of \$1,000,000 Bodily Injury and \$1,000,000 property damage.
- Worker's Compensation with statutory limits of liability.
- Automobile insurance with minimum limits of liability of \$500,000

6. Owned and operable equipment that will be used in the performance of this contract:

DESCRIPTION OF EQUIPMENT	QUANTITY	MAKE/MODEL

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FEE PROPOSAL

7. FEE PER CUT, performed at all JPHSDD properties/addresses listed in this Request For Proposals, including 300 residential addresses, an administration/maintenance property, and a Resident Council property.

Enter below (in writing and in numerals) a proposed fee per cutting (throughout all JPHSDD properties). Please note that a typical monthly invoice during the growing season would include billing for two (2) cuttings; such an invoice would therefore be in an amount two time (2X) the amount indicated below.

_____ (\$ _____)

PERIOD OF VALIDITY

This Proposal is valid until 5:00 PM Central Daylight Time on December 31, 2024.

Offeror's Name (business name)

signature of authorized representative of Offeror

date of signature

printed/typed name of authorized representative of Offeror

Notary:

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CERTIFICATION OF CONTRACTOR NON-EXCLUSION

This certification applies to a sole proprietor of any bidding entity or any individual partner, incorporator, director, manager, officer, organizer, or member, who has at least 10% ownership in the bidding entity, for consideration for awards of contracts, in accordance with LA R.S. 38:2227.

A conviction of or plea of guilty or no contest to the following state crimes or equivalent federal crimes shall permanently bar any person or the bidding entity from bidding on public projects:

- Public bribery
- Corrupt influencing
- Extortion
- Money laundering

A conviction of or plea of guilty or no contest to the following state crimes or equivalent federal crimes shall bar any person or the bidding entity from bidding on public projects for a period of five years from the date of conviction or from the date of the entrance of the plea of guilty or no contest:

- Theft
- Identity theft
- Theft of a business record
- False accounting
- Issuing worthless checks
- Bank fraud
- Forgery
- Contractors; misapplication of payments
- Malfeasance in office

The five-year prohibition shall apply only if the crime was committed during the solicitation or execution of a contract or bid awarded pursuant to the provisions of LA R.S. Title 38, Chapter 10 -- Public Contracts.

Should information be discovered about a bidding entity that would be cause for debarment, suspension exclusion, or determination of ineligibility for award of a contract, the JPHSDD shall report and submit supporting documentation to the applicable regulatory agency.

I hereby attest that I have not been convicted of, or have not entered a plea of guilty or nolo contendere to any of the crimes listed above or equivalent crimes.

Offeror's Name

Printed or Typed Name of Signer

Signature

Date of Signature

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CONTRACTOR'S SUMMARY

If this Bid is a joint venture, each business shall provide the information requested below.

Under penalties of perjury, as prescribed in 18 U.S.C. 1001, the undersigned certifies that the statements set forth in this bid are true and correct.

Bidder's Name: _____

By (signature): _____

Printed or Typed Name of signer: _____

Title: _____

Date: _____

(If a corporation, President or Vice-President should sign; If a Partnership, a Partner should sign. If some other Officer signs, evidence of authority must be submitted.)

Street Address: _____

City, State, Zip: _____

Telephone No.: _____

Taxpayer I.D. No. (EIN): _____

Notary:

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NON-COLLUSIVE AFFIDAVIT

(Proposer) _____

State of _____

City/County of _____

(Name of Proposer's authorized representative) Being duly sworn, deposes and says:

That he/she is _____ of the Proposer company/entity.
(Title; such as Partner, Officer, Member, etc.)

The party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham: that said bidder has not colluded, conspired, connived or agreed, directly or indirectly with any bidder or person to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the bid price or affiant or any other bidder, or to fix any overhead profit or cost element of said bid price, or that any other bidder, or to secure any advantage against the JPHSDD or any personal interest in the proposed contracts; and that all statements in said proposal or bid are true.

Signature of

Offeror, if the bidder in an individual

Partner, if the bidder is a partnership

Officer, if the bidder is a corporation

Notary:

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ACKNOWLEDGEMENT OF ADDENDA

Offeror has received the following Addenda, receipt of which is hereby acknowledged:

Addendum Number: _____ Date Received: _____

Addendum Number: _____ Date Received: _____

Addendum Number: _____ Date Received: _____

(Offeror's Name)

(Printed or Typed Name of signer)

(Signature)

(Date of Signature)

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/01/2014)

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

- (d) 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.

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.

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

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

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

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

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

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

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.