



## **Request for Proposals**

**TO PROVIDE FINANCIAL AND  
COMPLIANCE AUDIT SERVICES**

**For**

**HOUSING AUTHORITY OF THE  
CITY OF OXNARD, CALIFORNIA**

**Date Issued: May 13, 2025**

**Closes: June 10, 2025 at 4:00 PM (PST)**

# **REQUEST FOR PROPOSAL (RFP) TO PROVIDE FINANCIAL AND COMPLIANCE AUDIT SERVICES**

## **I. PROJECT DESCRIPTION**

### **Background**

The City of Oxnard Housing Authority (“OHA”) is requesting proposals from qualified and experienced Independent Public Accounting (IPA) firms having a demonstrated track record in successfully performing audits for public housing authorities. It is expected that the audit services will be performed in accordance with Generally Accepted Governmental Auditing Standards (GAGAS). The audit must meet all requirements set forth in Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), or any successor issuance, and/or any HUD Requirements, which are in effect as of the date of the audit onsite fieldwork.

The OHA was established in 1945 and has approximately 50 employees. The Agency’s fiscal year end is June 30, the agency is mainly funded by the U.S. Department of Housing and Urban Development (HUD). The Agency is quasi-government and therefore follows Generally Accepted Accounting Principles (GAAP) as promulgated by the Governmental Accounting Standards (GASB). For financial statements purposes, the PHA reports each separate program.

The Agency maintains the following programs

- Public Housing Program – The agency operates 523 public housing units organized into six (6) asset management projects and has a central office cost center. As part of its housing program, the OHA receives Capital Fund grant awards each year.
- The OHA manages 1,950 vouchers
- The OHA’s federal awards expended based on last year’s audit (rounded to thousands) were as follows:
  - CFDA 14.850 Low Rent Public Housing \$600,000
  - CFDA 14.872 Capital Fund Program \$4,860,000
  - CFDA 14.896 Family Self-Sufficiency \$196,000
  - CFDA 14.870 Resident Opportunity and Supportive Services \$65,000
  - CFDA 14.871 Housing Choice Vouchers \$31,479,000
  - CFDA 14.EHV Emergency Housing Vouchers \$1,000,000
  - CFDA 14.879 Mainstream Vouchers \$213,000

The OHA’s financial and resident records are maintained in the Yardi Systems software. The OHA utilizes the various RentCafe PHA Portals for Waitlists, Applicants, Residents, Landlords and On-line Applications and Recertifications.

### **Consultant Services**

The Housing Authority’s standard agreement for Consulting Services is attached (Attachment A). Please note the indemnity and insurance requirements for this project. A proposal is not desired from the consultant unless the consultant is willing to meet those requirements. The

consultant must comply with applicable local, state, and federal laws including any applicable wage rates.

### **General Information**

The Authority's fiscal year is from July 1 to June 30. The last audit was performed for the fiscal year ended **June 30, 2024**. Prior year audit reports are available upon request.

Auditor will provide the Authority with the final audit report in electronic (PDF) format.

The Authority will be prepared to have the audit commence on or about July-August, 2025. Fieldwork will be scheduled by mutual agreement, but the OHA expects that final fieldwork, as deemed necessary by the auditor, will take place sometime in August-September 2025. A summary report, including all findings and recommendations should be reviewed with the Housing Director, Finance Officer and other Authority management during an exit conference at the conclusion of final fieldwork.

### **Payment to the Independent Auditor**

Submission of the final audit report to the Authority and HUD, and the submission and acceptance of the Single Audit to the Federal Audit Clearinghouse (FAC) as well as IPA approval of the audited FDS submission to the HUD Real Estate Assessment Center (REAC) Financial Assessment Subsystem (FASS-PH) will be required prior to final payment of the audit fee by the Authority. The contract fee may be broken up into mutually agreed upon progress payments.

### **Scope of Work General Audit Requirements**

The Auditor will adhere to the general requirements provided below.

- 1. Audit Standards (Single Audit).** It is expected that the audit services will be performed in accordance with Generally Accepted Auditing Standards (GAAS) as set forth by the American Institute of Certified Public Accountants (AICPA) and Generally Accepted Governmental Auditing Standards (GAGAS) as issued by the US Government Accountability Office (GAO). The audit also must meet all requirements set forth in Title 2 U.S. code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), or any successor issuance, and/or any HUD or other Federal agency requirement, which are in effect as of the date of the audit onsite fieldwork. The audits will include tests of the accounting records of the Authority and other procedures considered necessary to enable the auditor to express an unmodified opinion that the financial statements are fairly presented, in all material respects, in conformity with Generally Accepted Accounting Principles, and to report on the Schedule of Federal Financial Assistance and on the Authority's compliance with laws and regulations and the Authority's internal controls and management practices as required for a Single Audit. This includes assistance with, and verification of, electronic submission of the Financial Data Schedule (FDS) via the

Internet as required by HUD's Real Estate Assessment Center (REAC).

- 2. State Requirements.** Any state audit requirements and procedures are expected to be properly performed and completed as part of this scope of work.
- 3. Audit Report.** The auditor will provide one (1) original unbound, one (1) electronic and 10 bound copies of the audited financial statements including the Single Audit report to the Finance Officer.
- 4. Retention of Work Papers.** The auditor shall retain work papers for a minimum of five (5) years after the date of issuance of the auditor's report to the Agency.
- 5. Access to Working Papers.** Audit work papers shall be made available upon request by the Agency, HUD, or any other governmental agency having jurisdiction to such request (i.e., Office of Inspector General), and are to be made available to the requested party within 10 days of receipt of such request. All reports rendered to the Agency by the auditor are the exclusive property of the Agency and is subject to the Agency's use and control, according to applicable laws and regulations.
- 6. Inquiries from Successor Auditors.** The audit firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing significance.
- 7. Compliance with Laws.** The Auditor agrees to be bound by applicable Federal, State, and Local laws, regulations, and directives as they pertain to the performance of the audit contract.

## Specific Services

The Contractor will provide the following services/tasks for audit services commencing with the Agency's fiscal year ending June 30, 2025:

A financial and compliance audit of the Housing Authority performed in accordance with the Section "Audit Requirements," above. With the exception of the Combined Statement of Cash Flows, which will be prepared by the auditor, the Authority will prepare, and the

Auditor will audit, the following financial statements:

### Basic Financial Statements

- Combined Statement of Net Position – Proprietary Fund Type.
- Statement of Revenue, Expenses and Changes in Fund Net Position – Proprietary Fund Type.
- Combined Statement of Cash Flows - Proprietary Fund Type.

### Supplemental Data

- Combining Statement of Net Position – Proprietary Fund Type.
- Combining Statement of Revenues, Expenses and Changes in Fund Net Position – Proprietary Fund Type.

### Schedule of Expenditures of Federal Awards

With the assistance of the Authority, Auditor will draft the Notes to the Financial Statements. Auditor will perform compliance procedures and issue a report, which encompasses applicable laws, regulations, and grant agreements for the following:

- Section 8 Housing Choice Voucher Program
- Capital Fund Program and any
- Other applicable federal grants

Auditor will prepare a Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards.

Auditor will prepare an Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by the Uniform Guidance

Attestation by auditor on Financial Data System (FDS) data as to its "fair presentation in relation to audited basic financial statements" in accordance with the audit provisions of the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards (SAS) No.29, "Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents." The Authority will prepare and submit to HUD the unaudited FDS submission, which is due to HUD within 60 days of fiscal year-end.

A separate attestation agreed-upon procedures engagement under AICPA Statement on Standards for Attestation Engagements (SSAE) No. 4, "Agreed-Upon Procedures Engagements" where the auditor compares the electronically submitted data in the REAC staging database to the hard copy of the FDS.

Provide (basic) financial statements as described in the Guidelines for Public Housing Authorities and Independent Auditors under the UFRS Rule (SAS 29), in the appropriate format for electronic submission to REAC.

Independent Auditor's Management Letter to the Executive Director concerning minor findings noted that were not material in nature during tests of internal control structure policies and procedures.

Any other reports as requested by OHA and as required by HUD's Uniform Financial Reporting Standards (UFRS) for Public Housing Authorities.

The Housing Authority understands that generally accepted auditing standards require that the Auditor obtain a representation letter prior to completion and submission of the Audit Report. This representation letter requires that the Executive Director and Director of Finance provide the Auditor with assurance based on knowledge and belief as to matters concerning the accounting records, operations and matters contained within the financial statements. Delay in providing this assurance will extend the date of completion of the audit.

Prepare and electronically submit, by the due date of March 31<sup>st</sup> each year, to the Bureau of Census, a Data collection Form (Form SF-SAC) along with the OHA audited financial statements and comply with all requirements.

## **AUDIT PERIOD**

The audit periods shall be for the fiscal period beginning July 1, 2024 and ending June 30, 2025 with options to extend for up to 4 consecutive one-year extensions. **Please note that any extensions will be based on satisfactory performance and mutual approval of the extension.**

## **REPORTS**

- A. Consultant shall prepare reports in accordance with all applicable standards, including but not limited to OMB Circular A-133 and *the Government Auditing Standards*.
- B. The audit report and management letter outlining recommendations for operational improvement shall be submitted in draft form to the OHA Finance Officer. The Finance Officer shall notify Consultant of any objections or approval of the draft audit report within 10 business days of receipt.
- C. One (1) unbound and ten (10) bound copies of each completed audit report shall be submitted to the Finance Officer by January 31<sup>st</sup> each year. It is anticipated that financial records will be closed and ready for audit by August 31<sup>st</sup> of each year. The Single Audit Act and REAC stipulate a submission due date of nine (9) months after the fiscal year end.

All reports provided to OHA are its exclusive property and subject to OHA's use and control.

## **WORK PAPERS**

- A. Consultant shall summarize all audit findings, observations, conclusions and recommendations in a workpaper file that without further oral explanation will support the financial statements reported on. The audit workpapers shall be made available for review by HUD and the U.S. General Accounting Office (GAO) during the course of the audit and for a period of three years after the audit has been accepted by HUD REAC.
- B. All workpapers prepared in connection with the contracted services will remain the property of Consultant. Consultant shall retain all work papers for a period of five years and be made available to OHA upon request.

## **ENTRANCE AND EXIT CONFERENCES**

Entrance and exit conferences shall be held with OHA and must be coordinated with the OHA Finance Officer.

## **INCREASES TO RATES**

Any increase to rates will be based on the Consumer Price Index (CPI) to a maximum increase of two-percent (2%) of the applicable rate.

The contractor shall furnish all qualified personnel, facilities, equipment and supplies to conduct an organization-wide financial and compliance audit in accordance with appropriate standards on behalf of the Oxnard Housing Authority (OHA).

## **PROPOSAL REQUIREMENTS**

Firms responding to this RFP should prepare clear and complete responses to each of the following questions and information requests. Brevity and clarity of responses will be appreciated. Please assemble proposal in the order described below with tabs clearly identifying each section.

In order to facilitate the review process and obtain the maximum degree of comparison, proposals should include the following information presented in the order and format show below. Standard proposal formats are acceptable provided the following information is included:

### **Section 1 – Technical Proposal**

1. Title page: include the proposal subject, the proposing firm's name, address, phone, fax numbers, email address, and contact person, date of the proposal, Federal I.D., number of the firm and firm's license number with the State Board of Accountancy.
2. Transmittal letter: a one- or two-page summary stating the proposer's understanding of the work to be done and making a positive commitment to perform the work within the time period required.
3. Table of Contents with page numbers.
4. Profile of the proposer;
  - a. Include location of office(s), number of partners, managers, supervisors, senior and other professional staff.
  - b. Identify personnel and how experienced and credentialed they are with respect to auditing Housing Authorities or local governments.
  - c. Statements whether the firm has met all CPA licensing and continued education requirements
  - d. Statement of Independence with respect to OHA.
  - e. Provide the results of the firm's last peer review.
  - f. Copy of Quality Assurance audit done by PIH/REAC QASS division of "None" statement.
  - g. PIH/REAC rejection rate of your audits, or a "Not Applicable" statement.
  - h. Describe the range of activities performed by your firm, including capability of auditing computerized systems.
  - i. If applicable, identify all major subcontractors necessary to conduct the project.
  - j. Provide references, including at least 3 Housing Authorities, local government or non-profit clients (with phone numbers and contact persons). The clients listed should be those served by members of the proposed audit team and/or local office who will be serving OHA.
5. Technical Approach: A clear description of the approach and methodology for implementing the scope of work.
6. Audit organization and management: This subsection should show the project team proposed for the work identified – Identification of person assigned to individual task(s) and, if applicable, the function and responsibilities for major subcontractors.
7. Audit Schedule: This subsection shall include the period of performance, proposed duration of the project in months and a milestone chart. Time for preparation and submission of

reports should be included in the schedule. Please state estimated number of field days required to complete the audit.

8. Outline the level of support your firm will require of OHA staff.
9. Additional data: Since the preceding sections are to contain data that is specifically requested, any additional information considered essential to the project should be included in this section. If there is no additional information present, state "None".

## **Section 2 – Cost Proposal**

Include detailed itemized cost statement showing various classes of staff hours at appropriate rates, delineated by task. Also, include an itemized listing of all other anticipated expenses or fees.

## **EVALUATION PROCESS**

Each submittal will be evaluated by the Evaluation Committee ("Committee"). The Committee will review and evaluate proposals using the evaluation criteria set forth in this RFP. Following the receipt of the proposal, the Evaluation Committee reserves the right to request additional information.

The firm will be ranked in order, based on relevant experience, qualifications and price. The Authority will attempt to negotiate an agreement with the first ranked firm. Should the Authority be unable to reach an agreement at a price the Authority determines to be fair and reasonable, negotiations with that firm will be formally terminated and negotiations begun with the second ranked firm. This process will be repeated until an agreement is reached.

The Authority reserves the right to reject any and/or all proposals.

## **EVALUATION CRITERIA**

The Authority will evaluate and will score each proposal as a complete response. Responses may receive a maximum score of one hundred (100) points subdivided as follows:

<b>Criteria</b>	<b>Points</b>
Experience with Housing Authorities/ references	40
Firm capacity – Number of years in business, number of people in firm	10
Proposed Fee	30
Comprehensiveness/responsiveness of proposal	10
Methodology – demonstrating a clear understanding of the scope of services required	10
<b>Total Points</b>	<b>100</b>



## **1. HUD REPRESENTATIONS**

**HUD Form 5369-A – Representations, Certifications, and Other Statements of Bidders.** Proposer shall review and sign this form and agree to incorporate the form into any subsequent contract with the Authority (Attachment B).

**HUD Form 5369-B – Instructions to Offerors Non-Construction.** Proposer shall review the Form and agree to comply with the terms and conditions described therein (Attachment C).

**HUD Form 5369-C – Certifications and Representations of Offerors.** Proposer shall review and sign this form and agree to incorporate the form into any subsequent contract with the Authority (Attachment D).

**HUD Form 5370-C – General Conditions for Non-Construction Contracts.** Proposer shall review the Form and agree to comply with the terms and conditions described therein (Attachment E).

## **RESERVATION OF RIGHTS**

The Oxnard Housing Authority, in its sole discretion, reserves the right to amend, modify, extend the deadline or cancel this RFP; to reject any or all Proposals received in response to the RFP; to decide whether a Proposal does or does not substantially comply with the requirements of this RFP; to waive any minor informality or irregularity of any Proposal; and obtain references regarding any Proposer's past performance. Neither issuance of this RFP; nor evaluation of any or all Proposals obligates the Authority to award a contract from this solicitation.

## **QUESTIONS OR REQUESTS FOR CLARIFICATION**

All questions and/or requests for clarification regarding technical information, procedures, contractual requirements or any other matter regarding this solicitation must be submitted **in writing** to the Contact Person identified in this RFP. All such requests must be received no later than ten (10) days before the submittal deadline. OHA will consider all timely-received questions and requests; if reasonable and appropriate, amend this RFP or issue an addendum to clarify this RFP.

## **CHANGES TO THIS SOLICITATION DOCUMENT**

Any change or clarification to the Scope of Work, procurement process or to the terms and conditions of the contract terms which are contained in this RFP will be issued in the form of a written Amendment or Addendum to this RFP. Unless otherwise stated, Proposers are not required to return Addenda with their submittal; however, Proposers are responsible for making themselves aware of, obtaining and incorporating any changes made in any issued Amendment or Addendum into their final Proposal. Failure to do so may cause the Proposer's Proposal to be rejected.

## **PROPOSAL PREPARATION AND SUBMISSION**

Proposals submitted in response to this RFP will be in accordance with the above Submittal Requirements and Evaluation Criteria. Responses should be of sufficient length and detail to

demonstrate the proposer has a thorough understanding of the skill sets that may be requested by OHA.

**Proposal Submission:**

**Hard Copies:** Proposer must provide: one (1) original, clearly marked “ORIGINAL” and four (4) copies, clearly marked “COPY” of the required submission. The following identification shall be clearly marked on the outside of the sealed envelope: “Request for Financial Audit Services”, Oxnard Housing Authority, Attn: Rhonda Hodge, 435 South D St., Oxnard, CA 93030

**OR**

**Digital Copies:** Proposals may also be submitted via email to [rhonda.hodge@oxnard.org](mailto:rhonda.hodge@oxnard.org)

**Responses to the RFP are due on or before June 10, 2025 at 4:00 p.m.**

## ATTACHMENT A

Agreement No.

### AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by and between the Oxnard Housing Department, a public body, corporate and politic (“**Authority**”), and \_\_\_\_\_. (“**Consultant**”).

WHEREAS, Authority desires to hire Consultant to perform certain professional services specified herein; and

WHEREAS, Consultant represents that Consultant and/or Consultant’s personnel have the qualifications and experience to properly perform such services.

NOW, THEREFORE, Authority and Consultant hereby agree as follows:

1. Scope of Services

Consultant shall furnish Authority with the professional services as more particularly set forth in **Exhibit A** attached hereto and incorporated by this reference in full herein (the “**Services**”).

2. Method of Performing Services

Subject to the terms and conditions of this Agreement, Consultant may determine the method, details, and means of performing the Services.

3. Standard of Performance

Consultant agrees to undertake and complete the Services to conclusion, using that standard of care, skill, and diligence normally provided by a professional person in performance of similar professional services.

4. Nonexclusive Services

This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any services for Consultant’s own account or to any other person or entity as Consultant in its sole discretion shall determine. Consultant agrees that performing such services will not materially interfere with the Services to be performed for the Authority.

5. Coordination of Services

The Services are to be coordinated with the Housing Authority Contract Administrator, subject to the direction of the Housing Director (“**Director**”).

6. Place of Work

Consultant shall perform the Services at the location identified in **Exhibit A** attached hereto and incorporated by this reference at such times as Authority shall determine.

7. Correction of Errors

Consultant agrees to correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the Authority, and the cost thereof shall be paid by Consultant.

8. Time for Performance

The Services shall be completed within the term of this Agreement as specified in Section 12 below. Authority agrees to amend the performance termination date whenever Consultant is delayed by action or inaction of Authority and Consultant promptly notifies Director of such delays.

9. Principal in Charge

Consultant hereby designates \_\_\_\_\_ as its principal-in-charge and person responsible for necessary coordination with Director.

10. Permits, Licenses, Certificates

Consultant, at Consultant's sole expense, shall obtain and maintain during the term of this Agreement, all permits, licenses, and certificates required in connection with the performance of the Services, including a City of Oxnard business tax certificate.

11. Authority's Responsibility

Authority shall cooperate with Consultant as may be reasonably necessary for Consultant to perform the Services. Director agrees to provide direction to Consultant as requested regarding particular project requirements.

12. Term of Agreement

This Agreement shall begin on \_\_\_\_\_, and expire on \_\_\_\_\_. Authority may exercise its option to extend the term of this Agreement with one-year renewal options up to a maximum of five years.

13. Termination

a. This Agreement may be terminated without cause by Authority if Director notifies Consultant, in writing, of Director's desire to terminate the Agreement. Such

termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice. Authority agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on Authority's behalf, whether for the employment of third parties or otherwise.

b. This Agreement may be terminated without cause by Consultant if Consultant notifies Director, in writing, of Consultant's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed prior to the date of termination.

#### 14. Compensation

a. Authority agrees to pay Consultant in an amount not to exceed \$\_\_\_\_\_ for the Services at rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein.

b. The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of Authority from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services.

c. Consultant agrees that payment by Authority shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by Authority for any defect or error in the Services performed by Consultant, its employees, subcontractors, agents and subconsultants.

d. Consultant shall provide Director with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service.

e. If any sales tax is due for the Services performed by Consultant or materials or products provided to Authority by Consultant, Consultant shall pay the sales tax. Authority shall not reimburse Consultant for sales taxes paid by Consultant.

#### 15. Method of Payment

a. Authority agrees to pay Consultant monthly upon satisfactory completion of the Services and upon submission by Consultant of an invoice delineating the Services performed, in a form satisfactory to Director. The invoice shall identify the Services by project as specified by Director.

b. Consultant agrees to maintain current monthly records, books, documents, papers, accounts and other evidence pertaining to the Services performed and costs incurred. Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant shall provide Director with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

#### 16. Responsibility for Expenses

Except as otherwise expressly provided in this Agreement, Authority shall not be responsible for expenses incurred by Consultant in performing the Services under this Agreement. All expenses incident to the performance of the Services under this Agreement shall be borne by the Consultant, including, but not limited to rent, vehicle, and travel, entertainment and promotion, general liability and health insurance, workers' compensation insurance, and all compensation and benefits of employees or agents engaged by Consultant. Consultant shall, at its own cost and expense, supply all personal property necessary or appropriate to perform the Services provided for under this Agreement, including, but not limited to any personal property used by employees and agents of Consultant in the performance of such Services.

#### 17. Department of Housing and Urban Development (HUD) Requirements

In executing this Agreement, Consultant agrees to abide by the provisions contained within all applicable Federal laws, Executive Orders, OMB Circulars, specifically OMB Circular A-110, any assurances and certifications in the final HUD approved Resident Opportunities and Self-Sufficiency Program Grant Application that Authority submitted, the Code of Federal Regulations (CFR) 2 CFR Part 200, as amended from time to time.

#### 18. Non-Appropriation of Funds

Payments to be made to Consultant by Authority for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of Authority. In the event Authority does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which Authority appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

#### 19. Records

a. Consultant agrees that all final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data and photographs expressly required to be prepared by Consultant as part of the scope of services ("**documents and materials**") shall be the property of Authority and shall, upon completion of the Services or termination of this Agreement, be delivered to Director.

b. At Authority's request, Authority shall be entitled to immediate possession of, and Consultant shall furnish to Director within ten (10) days, all of the documents and materials. Consultant may retain copies of these documents and materials.

c. Any substantive modification of the documents and materials by Authority staff or any use of the completed documents and materials for other Authority projects, or any use of uncompleted documents and materials, without the written consent of Consultant, shall be at

Authority's sole risk and without liability or legal exposure to Consultant. Authority agrees to hold Consultant harmless from all damages, claims, expenses and losses arising out of any reuse of the documents and materials for purposes other than those described in this Agreement, unless Consultant consents in writing to such reuse.

## 20. Maintenance and Inspection of Records

Consultant agrees that Authority or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that Authority is receiving all the Services to which Authority is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by Authority. Consultant agrees to maintain all such records in Authority or to promptly reimburse Authority for all reasonable costs incurred in conducting the audit at a location other than in Authority, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead.

## 21. Confidentiality of Information

Any documents and materials given to or prepared or assembled by Consultant under this Agreement shall be confidential and shall not be made available to any third person or organization by Consultant without prior written approval of the Director.

## 22. Indemnity

a. To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless Authority, its legislative body, each member thereof, and its directors, officers, and employees (the "**Indemnified Party**") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant's performance of this Agreement or Consultant's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of the Indemnified Party.

b. The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Indemnified Party immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by

the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to Authority for reimbursement of reasonable attorneys' fees and defense costs.

c. The review, acceptance or approval of Consultant's work or work product by the Indemnified Party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This Section shall survive completion of the Services or termination of this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance."

### 23. Insurance

a. Consultant shall obtain and maintain during the performance of the Services under this Agreement the insurance coverages as specified in **Exhibit INS-1**, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages.

b. Consultant shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-1**. Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in **Exhibit INS-1**.

c. Maintenance of proper insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

### 24. Independent Contractor

a. Authority and Consultant agree that in the performance of the Services, Consultant shall be, and is, an independent contractor, and that Consultant and its employees are not employees of Authority. Consultant has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons assisting Consultant.

b. Consultant shall be solely responsible for, and shall save Authority harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations.

c. Consultant acknowledges that Consultant and Consultant's employees are not entitled to receive from Authority any of the benefits or rights afforded employees of Authority, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, or health, life, dental, long-term disability and workers' compensation insurance benefits.

### 25. Consultant Not Agent



Except as Director may specify in writing, Consultant, and its agents, employees, subcontractors and subconsultants shall have no authority, expressed or implied, to act on behalf of Authority in any capacity, as agents or otherwise, or to bind Authority to any obligation.

#### 26. Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a “**governmental decision**” as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for Authority that would otherwise be performed by a Authority employee holding a position specified in Authority’s conflict of interest code, Consultant shall be subject to Authority’s conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant’s personnel providing the Services set forth in this Agreement.

#### 27. Assignability of Agreement

Consultant agrees that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s personnel’s unique competence, experience and specialized personal knowledge. Assignments of any or all rights, duties, or obligations of Consultant under this Agreement will be permitted only with the express written consent of Director, which consent may be withheld for any reason.

#### 28. Successors and Assigns

Consultant and Authority agree that this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant and Authority.

#### 29. Fair Employment Practices

a. Consultant agrees that all persons employed by Consultant shall be treated equally by Consultant without regard to or because of race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law, and in compliance with all antidiscrimination laws of the United States of America, the State of California, and Authority.

b. Consultant agrees that, during the performance of this Agreement, Consultant and any other parties with whom Consultant may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

c. Consultant agrees to state in all of its solicitations or advertisements for applicants for employment that all qualified applicants shall receive consideration for employment without regard to their race, color, religion, ancestry, national origin, disability, sex,

marital status, age, or any other status protected by law.

d. Consultant shall provide Authority staff with access to and, upon request by Director, provide copies to Director of all of Consultant's records pertaining or relating to Consultant's employment practices, to the extent such records are not confidential or privileged under State or federal law.

### 30. Force Majeure

Consultant and Authority agree that neither Authority nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include, but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

### 31. Time of Essence

Consultant and Authority agree that time is of the essence in regard to performance of any of the terms and conditions of this Agreement.

### 32. Covenants and Conditions

Consultant and Authority agree that each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

### 33. Governing Law

Authority and Consultant agree that the construction and interpretation of this Agreement and the rights and duties of Authority and Consultant hereunder shall be governed by the laws of the State of California.

### 34. Compliance with Laws

Consultant agrees to comply with all Authority, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

### 35. Severability

Authority and Consultant agree that the invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

### 36. Waiver

Authority and Consultant agree that no waiver of a breach of any provision of this Agreement by either Consultant or Authority shall constitute a waiver of any other breach of the same provision or any other provision of this Agreement. Failure of either Authority or Consultant to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

### 37. Counterparts

Authority and Consultant agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

### 38. Arbitration

Consultant and Authority agree that in the event of any dispute with regard to the provisions of this Agreement, the Services rendered or the amount of Consultant's compensation, the dispute may be submitted to non-binding arbitration upon the mutual agreement of the parties, under such procedures as the parties may agree upon, or, if the parties cannot agree, then under the Rules of the American Arbitration Association.

### 39. Expenses of Enforcement

Consultant and Authority agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the Authority's General Counsel) and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

### 40. Authority to Execute

a. Authority acknowledges that the person executing this Agreement has been duly authorized by its legislative body to do so on behalf of Authority.

b. Consultant acknowledges that the person executing this Agreement has been duly authorized by Consultant to do so on behalf of Consultant.

### 41. Notices

a. Any notices to Consultant may be delivered personally or by mail addressed to \_\_\_\_\_ . Any notices to Authority may be delivered personally or by mail addressed to Oxnard Housing Authority, 435 South "D" Street, 2nd Floor, Oxnard, California 93030, Attention: Housing Director.

### 42. Amendment

Authority and Consultant agree that the terms and conditions of the Agreement may

be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the Authority representative authorized to do so under the Authority's purchasing policies and Consultant.

43. Entire Agreement

Authority and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

OXNARD HOUSING AUTHORITY

CONSULTANT

---

Brenda Lopez  
Interim Housing Director

---

NAME  
TITLE

APPROVED AS TO FORM

APPROVED AS TO INSURANCE

---

Stephen M. Fischer, Housing General Counsel

---

Rhonda Hodge, Housing Finance Manager

APPROVED AS TO COMPLIANCE

---

Rhonda Hodge, Contract Administrator

EXHIBIT A  
SCOPE OF SERVICES

EXHIBIT B  
COMPENSATION

Consultant will be paid at the rate of \$\_\_\_\_\_.

**INSURANCE REQUIREMENTS FOR CONSULTANTS  
(WITH ERRORS AND OMISSIONS REQUIREMENT)**

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office commercial general liability coverage (Occurrence Form CG0001ED, November 1988). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA000T, ED June 1992) covering Code No. 1, "any auto";

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of \$1,000,000, with neither Consultant nor listed subconsultants having less than \$500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than \$1,000,000 per claimant.

2. Consultant shall, prior to performance of any services, file with the Administrative Services Manager certificates of insurance with original endorsements effecting coverage required by this Attachment INS-1. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Administrative Services Manager. All certificates and endorsements are to be received and approved by the Administrative Services Manager before commencement of services. Authority reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be forwarded to the Administrative Services Manager, addressed as follows:

Oxnard Housing Authority  
Rhonda Hodge  
435 South D Street  
Oxnard, California 93030

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Administrative Services Manager. The Administrative Services Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name Authority, its Commissioners, officers, employees, agents and volunteers and the City of Oxnard, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to Authority, its Commissioners, officers, employees, agents and volunteers and the City of Oxnard, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Attachment INS-1 or substitute forms containing the same information and acceptable to the Administrative Services Manager shall be used to provide the endorsements.**

5. The coverages provided to Authority shall be primary and not contributing to or in excess of any existing Authority insurance or self-insurance coverages. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Authority, its Commissioners, officers, employees, agents and volunteers and the City of Oxnard, its City Council, officers, employees, agents and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Administrative Services Manager. At the option of the Administrative Services Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Authority, its Commissioners, officers, employees, agents and volunteers and the City of Oxnard, its City Council, officers, employees, agents and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Administrative Services Manager.

ACCORD CERTIFICATE OF INSURANCE						ISSUE DATE (MM/DD/YY)	
PRODUCER			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.				
CODESUB-CODE			COMPANIES AFFORDING INSURANCE COVERAGE				
INSURED			COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE				
			COMPANY LETTER B				
COVERAGES							
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.							
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS		
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE	\$1,000,000	
					PRODUCTS COMP/OP AGG.	\$1,000,000	
					PERSONAL & ADV. INJURY	\$1,000,000	
					EACH OCCURRENCE	\$1,000,000	
					FIRE DAMAGE (Any one fire)	\$	
					MED. EXPENSE (Any one person)	\$	
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT	\$1,000,000	
					BODILY INJURY (Per person)	\$	
					BODILY INJURY (Per accident)	\$	
					PROPERTY DAMAGE	\$	
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE	\$	
					AGGREGATE	\$	
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS		
					EACH ACCIDENT	\$1,000,000	
					DISEASE-POLICY LIMIT	\$1,000,000	
					DISEASE-EACH EMPLOYEE	\$1,000,000	
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage	\$1,000,000	
					Each consultant/ & listed sub-consultant	\$500,000	
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS							
CERTIFICATE HOLDER Oxnard Housing Authority Attn: Rhonda Hodge 435 South D Street Oxnard CA 93030			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE				



**GENERAL LIABILITY SPECIAL ENDORSEMENT  
FOR THE OXNARD HOUSING AUTHORITY (the "Authority")**

**SUBMIT IN DUPLICATE**

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

POLICY INFORMATION:  
Insurance Company:  
Policy No.:  
Policy Period: (from) \_\_\_\_\_ (to) \_\_\_\_\_  
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits  
☐ In Addition to Limits

NAMED INSURED

☐ Deductible ☐ Self-Insured Retention (check which) of \$ \_\_\_\_\_  
with an Aggregate of \$ \_\_\_\_\_ applies to \_\_\_\_\_  
coverage. ☐ Per Occurrence ☐ Per Claim \_\_\_\_\_ (which)

**APPLICABILITY.** This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the Authority unless checked here ☐ in which case only the following specific agreements and permits with the Authority are covered:

AUTHORITY AGREEMENTS/PERMITS

**TYPE OF INSURANCE**

GENERAL LIABILITY

- ☐ COMMERCIAL GENERAL LIABILITY  
☐ COMPREHENSIVE GENERAL LIABILITY  
☐ OWNERS & CONTRACTORS PROTECTIVE

- ☐ Claims Made  
Retroactive Date \_\_\_\_\_  
☐ Occurrence

**OTHER PROVISIONS**

**COVERAGES**

LIABILITY LIMITS IN THOUSANDS \$

EACH  
OCCURRENCE

AGGREGATE

- ☐ GENERAL  
☐ PRODUCTS/COMPLETED OPERATIONS  
☐ PERSONAL & ADVERTISING INJURY  
☐ FIRE DAMAGE  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_

**CLAIMS:** Underwriter's representative for claims pursuant to this insurance.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The Authority, its officers, agents, employees, agents and volunteers and the City of Oxnard, its City Council, officers, employees, agents and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the Authority; or (b) products sold by the named insured to the Authority; or (c) premises leased by the named insured from the Authority, the insurance afforded by this policy shall be primary insurance as respects the Authority, its officers, agents, employees, agents or volunteers or the City of Oxnard, its City Council, officers, employees, agents or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Authority, its officers, agents, employees, agents or volunteers or the City of Oxnard, its City Council, officers, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE.** With respect to the interests of the Authority, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the Authority.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the Authority, its officers, agents, employees, agents or volunteers or the City of Oxnard, its City Council, officers, employees, agents or volunteers.

6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:

- a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or  
b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

**ENDORSEMENT HOLDER**

Oxnard Housing  
Authority Attn: Rhonda  
Hodge 435 South D  
Street Oxnard, CA 93030

**AUTHORIZED REPRESENTATIVE**

☐ Broker/Agent ☐ Underwriter

I \_\_\_\_\_ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature \_\_\_\_\_  
(original signature required)

Telephone: ( ) \_\_\_\_\_ Date \_\_\_\_\_ Signed \_\_\_\_\_

**AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT  
FOR THE OXNARD HOUSING AUTHORITY (the "Authority")**

**SUBMIT IN DUPLICATE**

ENDORSEMENT NO.

ISSUE DATE  
(MM/DD/YY)

PRODUCER

Telephone:

**POLICY INFORMATION:**

Insurance Company:

Policy No.:

Policy Period: (from) (to)

LOSS ADJUSTMENT EXPENSE ☐ Included in Limits  
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of \$  
with an Aggregate of \$  
coverage. ☐ Per Occurrence ☐ Per Claim (which)

NAMED INSURED

**APPLICABILITY.** This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the Authority unless checked here ☐ in which case only the following specific agreements and permits with the Authority are covered:

AUTHORITY AGREEMENTS/PERMITS

**TYPE OF INSURANCE**

☐ COMMERCIAL AUTO POLICY

☐ BUSINESS AUTO POLICY

☐ OTHER

**OTHER PROVISIONS**

**LIMIT OF LIABILITY**

\$ \_\_\_\_\_ per accident, for bodily injury and property damage.

**CLAIMS:** Underwriter's representative for claims pursuant to this insurance.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The Authority, its officers, agents, volunteers and the City of Oxnard, its City Council, officers, employees, agents and volunteers and employees, agents are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the Authority; or (b) products sold by the named insured to the Authority; or (c) premises leased by the named insured from the Authority, the insurance afforded by this policy shall be primary insurance as respects the Authority, its officers, agents, employees, agents or volunteers or the City of Oxnard, its City Council, officers, employees, agents or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Authority, its officers, agents, employees, agents or volunteers or the City of Oxnard, its City Council, officers, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE.** With respect to the interests of the Authority, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the Authority.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the Authority, its officers, agents, employees, agents or volunteers and the City of Oxnard, its City Council, officers, employees, agents or volunteers.

6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:

a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA000T (Ed. 6/92), code ("any auto"); or

b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

**ENDORSEMENT HOLDER**

**Oxnard Housing Authority**

**Attn: Rhonda Hodge**

**435 South D Street**

**Oxnard, CA 93030**

**AUTHORIZED REPRESENTATIVE**

☐ Broker/Agent ☐ Underwriter

☐

I \_\_\_\_\_ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature \_\_\_\_\_

(original signature required)

Telephone: (\_\_\_\_) \_\_\_\_\_ Date \_\_\_\_\_ Signed \_\_\_\_\_

# **ATTACHMENT B**

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

Office of Public and Indian Housing

### **Representations, Certifications, and Other Statements of Bidders Public and Indian Housing Programs**

# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

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### 1. Certificate of Independent Price Determination

#### (a) The bidder certifies that--

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

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

(1) Is the person in the bidder'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's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder'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 deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[ ] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [ ] is, [ ] is not included with the bid.

### 2. Contingent Fee Representation and Agreement

#### (a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

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

(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.

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

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

### 3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

#### 4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

(a) Result in an unfair competitive advantage to the bidder; or,  
(b) Impair the bidder's objectivity in performing the contract work.  
[ ] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

#### 5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

#### 6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

#### 7. Small, Minority, Women-Owned Business Concern Representation

The bidder 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 business enterprise. "Women-owned business enterprise," as used in this provision, means a 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 business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled 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

#### 8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [ ] is, [ ] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [ ] is, [ ] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

**9. Certification of Eligibility Under the Davis-Bacon Act** (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**10. Certification of Nonsegregated Facilities** (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**Note:** The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

**11. Clean Air and Water Certification** (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [ ] is, [ ] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

**12. Previous Participation Certificate** (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate"

[ ] is, [ ] is not included with the bid.

**13. Bidder's Signature**

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

\_\_\_\_\_  
(Signature and Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Company Address)

# 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:]



# Certifications and Representations of Offerors Non-Construction Contract

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

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/offers to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

## 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

## 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

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

#### 5. Authorized Negotiators (RFPs only)

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

\_\_\_\_\_  
Signature & Date:

\_\_\_\_\_  
Typed or Printed Name:

\_\_\_\_\_  
Title:

# 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. 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 \$150,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

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

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

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

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

#### 3. Termination for Convenience and Default

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

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

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

- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
  - (i) appeals under the clause titled Disputes;
  - (ii) litigation or settlement of claims arising from the performance of this contract; or,
  - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

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

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

## 6. Energy Efficiency

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

## 7. Disputes

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

## 8. Contract Termination; Debarment

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

## 9. Assignment of Contract

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

## 10. Certificate and Release

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

## 11. Organizational Conflicts of Interest

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

## 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

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

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

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

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

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

(b) For purposes of subdivision (b)(ii)(2)(a) of 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 sub[contractor/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 Braille 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 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) 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
- (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