

# **Booneville Housing Authority**

**(A Public Housing Authority)**

## **INVITATION FOR PROPOSAL (IFP)**

**No. P22001**

**Security Services**

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**REQUEST FOR PROPOSALS**

Sealed proposals will be received for Security Services for property owned by Booneville Housing Authority (BHA) located throughout four (4) developments in Booneville, MS. Proposals shall be submitted by 12:00 p.m. local time on Monday, August 8, 2022, to the office of the Housing Authority; 801 N. College St.; P.O. Box 368, Booneville, MS 38829-0368.

Specifications and proposal documents are available at the above address, or phone (662) 728-4032, ext. 3. Proposals shall be submitted in a sealed envelope, plainly marked "Proposal for Security Services" to the Housing Authority either physically at 801 N. College St., Booneville, MS 38829, or by mail, P.O. Box 368, Booneville, MS 38829.

A pre-proposal conference to discuss the specifications and contract requirements will be held at the office of BHA, 801 N. College St., Booneville, MS at 9:30 a.m. local time on July 25, 2022. Attendance of prospective proposers is desirable, but not mandatory.

A conditional or qualified proposal will not be accepted. Award will be made to the lowest and best proposer that is determined by BHA to be responsible and responsive which determination will be based upon the amount of the proposal, the responses to the questionnaire in the proposal and administrative factors.

BHA reserves the right to reject any or all proposals and to waive any formalities in the proposals. No proposal may be withdrawn for a period of sixty (60) days following the opening of proposals without the consent of BHA.

The Housing Authority does not discriminate on the basis of race, color, religion, sex, national origin, age, handicap, or familial status.

Dated this 5<sup>th</sup> day of July, 2022.

BOONEVIELL HOUSING AUTHORITY  
BY: Christopher L. McKissick

**SCOPE OF WORK**

This specification covers the requirements of providing security services for property owned by BHA located throughout four\* (4) developments in Booneville, MS (see Location of Work below). The objectives shall be accomplished by Contract(s) between BHA and the Contractor(s).

**LOCATION OF WORK – GENERALLY**

\*Below are locations of BHA developments:

- College View – 801 N. College St., Booneville, MS
- August Circle – 100 August Circle, Booneville, MS
- Sunflower – 100 Sunflower Hsg., Booneville, MS
- East Circle – 200 Mimosa St., Booneville, MS

**SERVICES**

Guard (either on foot or in vehicle) to enforce security regulations per BHA Dwelling Lease, and House Rules that have been established by BHA. Screen all persons seen on BHA property; check vacant apartments; check community centers and insure that all doors are locked; check maintenance buildings and make sure all are locked; check for unauthorized vehicles on BHA property, enforce city ordinance pertaining to loitering; monitor developments for unruly crowds, loud music, outside parties and drinking alcoholic beverages or drug involvement on BHA property or in nearby parking lots, streets, etc. and address these problems by confronting tenant(s) and non-tenants in an attempt to resolve the matter to the extent possible, serve no trespass letters and perform other security and security related duties. Provide security suggestions. Keep daily written reports and patrol logs. Provide to staff and BHA residents easily accessible telephone contact numbers for reporting necessary information. Report to BHA Executive Director all unusual occurrences. Perform with professionalism and courtesy and safety consciousness toward residents, guests, BHA personnel and the general public. Security Company must establish a relationship and work with all local law enforcement agencies.

While BHA wishes to leave the details of the performance of this contract in the hands of the security firm, BHA does encourage consideration of the trained and certified use of less-than-deadly force methods (such as stun guns, phasers/tasers, mace, batons, etc.). Such decision is that of the security firm. If the security firm decides that use of less-than deadly force elements is appropriate in the performance of this contract the security firm shall require its personnel to be trained and certified in use of such elements (such as stun guns, phasers/tasers, mace, batons, etc.) and trained in the protocol in regard to use of force. The security firm shall maintain liability and responsibility in connection with the use of any deadly force or less-than-deadly force elements and shall fully and completely defend indemnify and hold BHA and all of its past, present and future officials, employees, board members and agents harmless of and from any and all claims founded in whole or in part upon the use of force (whether deadly force or less-than-deadly force) including but not limited to payment in full of any judgement or settlement arising from such a reimbursement to BHA of any and all costs, fees and expenses incurred by BHA and including but not limited to attorney fees, court costs and otherwise.

**Servicing of Notices:** Contractor shall provide, on an as-needed basis the service of notices. Service of notices shall be initiated within a minimum of 24 hours from receipt of request for service and submit copy of proof of service no later than 48 hours from date of service.

**Maintenance Requests:** Contractor shall, during their patrol, notate in writing any possible maintenance problems within the community to the property manager the following business day during normal business hours. Items to be included in this are broken windows, burned out lights, burned out security lighting, etc. Emergency items should be called in to the On-Call Maintenance Person as needed.

**Interaction with Loiterers:** Security Guards shall assist with enforcing curfews and “No Trespassing” rules, identify loiterers and trespassers, and escort violators to their residences or off the premises as applicable. All incidents will be documented and forwarded to the Executive Director.

**Drug or Suspicious Activity:** Security Guards shall identify persons and/or residential units involved in drug or suspicious activity, and note the destinations of such individuals within each community and/or their associations, and shall notify BHA Executive Director.

### **WORK SCHEDULE**

BHA will establish a work schedule. The Security Contractor will coordinate with BHA Executive Director regularly to set the working schedule, so as to avoid developing a predictable pattern of patrolling by security guards. Work schedules for each subdivision, including number of walk-throughs, drive-throughs, etc., will be agreed upon by the Contractor and BHA with a minimum of 8 hour shifts per day, 3 to 7 calendar days per week. The Security Contractor should maintain a high degree of professional visibility in the community. They should regularly do foot patrols and interact with residents in order to foster a sense of community among the residents.

### **STAFFING**

Each Contractor must have adequately trained staff that would allow flexible hours for emergency situations. Each staff member must be uniformed and easily identifiable as a security officer and an employee of Contractor. It is vital that the security staff and management work closely together in order to provide a safe living environment. Before any work is performed under the contract, the Contractor and each employee working under each contract must have and maintain at all times a valid Drivers License and Statewide Gun Permit from the Mississippi State Department of Public Safety to carry a firearm. Further, if less-than-lethal weapons are used, such as phasers or tasers, the officer must be trained and certified in the use of such weapons. Written certification of training from the manufacturer who supplies the phasers or tasers must be provided to BHA prior to the officer carrying such a weapon on BHA property. Contractor must provide BHA with a list of staff members to be assigned to the contract, and a copy of each staff member's driver's records check and Statewide Gun Permit from the Department of Public Safety, and certification of training for any officers who will carry phasers or tasers in connection with this contract.

### **EQUIPMENT**

Each Contractor must have vehicles in good running condition with visible signs identifying the security company mounted on the driver and passenger side doors of the vehicles and must have adequate communication equipment in vehicles or on each staff member including a means for tenants to contact the Security Guard when needed. Failure to abide by this provision of the contract will result in the contractor not being paid for the period of non-compliance.

### **INSURANCE**

To the fullest extent permitted by law, **Contractor** agrees to fully defend, indemnify and hold harmless **Housing Authority and its employees, officers, and agents**, from and against all losses, expenses, liens, claims, demands, damages, or causes of action of every kind or character whatsoever, for injury to or death or any persons or damage to property, including costs, attorney's fees and settlements, arising out of or in any way related to **Contractor's** operations under this agreement.

**Contractor** shall maintain the following minimum insurance coverages for the duration of the contract with carriers having a current A.M. Best Rating of A-:VI or better. Such limits are minimum limits and do not serve as a cap on **Contractor's** liability under this contract.

- A. Worker's Compensation Insurance
  - Limits – Statutory benefits for the State in which operations are being performed
  - Employers' Liability Insurance
  - Limits \$1,000,000 each accident
  - \$1,000,000 each employee – disease
  - \$1,000,000 policy limit – disease
- B. Commercial General Liability Insurance
  - Limits \$1,000,000 each occurrence
  - \$2,000,000 general aggregate
  - \$1,000,000 products/completed operations aggregate
  - \$1,000,000 personal injury and advertising coverage

C. Business Automobile Liability  
Limits \$1,000,000 each occurrence

**Contractor** shall name **Housing Authority** as additional insured for both ongoing and complete operations on the general liability policy. Additional insured on the general liability policy shall be accomplished by use of the ISO endorsements CG 20 10 and CG 20 37 or equivalent. **Contractor** agrees to include **Housing Authority** as an additional insured for automobile liability. All policies shall provide a waiver of subrogation in favor of **Housing Authority** and shall be primary and noncontributory with any cover of **Housing Authority**. **Contractor** shall provide to **Housing Authority**, and **Contractor's** expense and prior to any entry on **Housing Authority's** property, certificates of insurance and endorsements evidencing the coverage required in this agreement. Failure of **Housing Authority** to require such evidence of coverage or **Housing Authority's** acceptance of a non-compliant certificate of insurance does not waive the insurance requirement of this contract.

**CONTRACT AWARD**

Contract will be awarded to the responsible offeror whose offer, conforming to the solicitation, will be most advantageous to BHA.

**SELECTION FACTORS**

- a. Experience of the company (40 points): Including number of years providing on-site Security Services. The BHA reserves the right to contact any party that the proposer has worked for in the past and to reject a proposer based on past poor performance.
- b. Organizations qualifications (30 points): Training experience and longevity of staff; training programs; quality of operating policies and personnel procedures.
- c. Cost (30 points): **Cost** (fees), weighted, based on lowest price at 30 points

$$\text{Score} = \frac{\text{Lowest Bidders' Price}}{\text{Bidders' Price}} \times 30$$

**EVALUATION PROCESS**

BHA will appoint an Evaluation Committee to evaluate the proposals received. The Committee shall apply the evaluation criteria in selection factors and score based on the allotted points.

Firms successfully meeting the evaluation criteria and with satisfactory scores will be considered qualified.

**PERIOD OF CONTRACT**

Contract shall be for a period beginning November 1, 2022 and ending on September 30, 2022. Contract may be terminated without cause at any time by the giving of thirty (30) days advance written notice by either party to the other party. Termination for cause shall not require thirty (30) days advance written notice.

**ASSIGNABILITY**

The Contractor shall not assign nor transfer any interest in the contract, except that claim for monies due or to become due to them from BHA under the contract may be assigned to a bank, trust company, or other financial institution.

**BILLING**

Monthly statements are to be sent to BHA as of the end of each month. Payment will be due no more than 30 days from receipt of an invoice, provided there are no errors in the bill that require correction by the contractor. Statements should indicate number of hours and amount per hour for the month billed for each Development. No payment will be made until all invoices submitted by the contractor have been received and approved by the Executive Director.

**BHA'S RESERVATION OF RIGHTS**

BHA reserves the right to:

- a. BHA reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by the BHA to be in its best interests.
- b. BHA reserves the right not to award a contract pursuant to this RFP.
- c. BHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon fourteen (14) days written notice to the successful proposer(s).
- d. BHA reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
- e. BHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of sixty (60) days subsequent to the deadline for receiving proposals without the written consent of the BHA Executive Director.
- f. BHA reserves the right to negotiate the fees proposed by the proposer entity. If such negotiations are not, in the opinion of BHA's ED, successfully concluded within a reasonable timeframe as determined by BHA, BHA shall retain the right to end such negotiations.
- g. BHA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- h. BHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- i. BHA shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. Each prospective proposer further agrees that he/she will inform BHA's ED in writing within five (5) days of the discovery of any item that is issued thereafter by BHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve BHA, but not the prospective proposer, of any responsibility pertaining to such issue.
- j. BHA reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any EXHIBIT or drawing, or within any addenda issued. All addenda will be posted on BHA's website, <https://boonevilleha.com>, under Business Opportunities. Such changes that are issued before the proposal submission deadline shall be binding upon all prospective proposers.
- k. In the case of rejection of all proposals, BHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of BHA, the best interest of BHA will be promoted.
- l. BHA reserves the right to, without any liability; cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- m. BHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to BHA, if:
  1. Funding is not available,
  2. Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or
  3. BHA's requirements in good faith change after award of the contract.

- 
- n. BHA reserves the right to make an award to proposer based on ratings and to award with or without negotiations or a “Best and Final Offer” (BAFO)
  - o. BHA reserves the right to require additional information from all proposers to determine level of responsibility. Such information shall be submitted in the form required by BHA within two (2) days of written request.
  - p. BHA reserves the right to amend the contract any time prior to contract execution.
  - q. BHA reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this RFP and any resulting contract.
  - r. BHA reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the proposer regardless of their inclusion in the reference section of the proposal submittal.
  - s. In the event any resulting contract is breached, prematurely terminated or cancelled due to non-performance and/or withdrawal by the Contractor, BHA reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (difference between existing Contracted rate and new Contract rate) beginning the date of Contractor’s termination, breach and/or cancellation through the contract expiration date.
  - t. BHA reserves the right to require the Contractor to replace any employee, subcontractor, or other individuals and/or entities, found to be unacceptable, performing work under any contract resulting from this RFP. Replacement shall occur within two (2) days of notification by BHA.



**EXHIBIT A:**  
**COMPETITIVE PROPOSAL**

I, \_\_\_\_\_, submit the following proposal to the Request for Proposals and in accordance with the BHA’s Specifications for Security Services included in the proposal package:

PROPOSAL AMOUNT \$ \_\_\_\_\_ PER HOUR/SECURITY OFFICER

At present time services are being provided, although in the future, the extend of services may be changed – discontinued, increased, reduced, or otherwise altered.

I am furnishing herewith a completed Security Services Questionnaire with the proposal package.

The undersigned, having familiarized themselves with the local conditions affecting the cost of the work, and with the Specifications, if any thereto, hereby proposes to furnish all labor, materials, equipment and services required to provide such service(s) described in the Scope of Work in accordance therewith.

It is understood that the contracts will be awarded based on the lowest, best and most advantageous proposal that is determined by BHA to be responsible and responsive. The proposer’s score on the Security Service Questionnaire and administrative factors will be the ultimate factors in determining the proposal that is lowest, best and most advantageous for each contract.

It is further understood that the term of contract will be for 24 months, but contract may be terminated without cause at any earlier time by the giving of thirty days written notice by either party to the other party. Termination for cause shall not require thirty (30) days written notice.

PROPOSER: \_\_\_\_\_ PROPOSER’S NAME: \_\_\_\_\_  
SIGNATURE

ADDRESS: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT B:**  
**SECURITY SERVICES QUESTIONNAIRE**

Each contractor submitting a proposal on work included in the proposal specifications shall prepare and submit the following information. This data must be included in and made a part of each proposal package. Failure to comply with this instruction may be regarded as justification for rejecting the contractor’s proposal. BHA personnel will analyze each questionnaire and assign points per scoring system from 0 – 25 in order to determine the lowest and best proposal. Additionally, administrative factors will be considered and scored from 0 – 5 bonus points.

**PROPOSAL**

A. Name of Proposer: \_\_\_\_\_

B. Business Address of Proposer: \_\_\_\_\_

\_\_\_\_\_

C. Owner, Partners, or Officers of Organization:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

D. Date Organized: \_\_\_\_\_

E. Incorporated? ( ) Yes ( ) No

1. **EXPERIENCE OF ORGANIZATION**

A. How many years have you been engaged in the security business under the present firm name: \_\_\_\_  
\_\_\_\_\_

B. List experience in security of housing developments or similar environment (Briefly describe contracts and approximate dates)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Other contracts performed or ongoing. Briefly describe type and dates:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

D. Have you ever failed to complete any work awarded to you? ( ) Yes ( ) No

If yes, give details: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. PERSONNEL AND EXPERIENCE OF PERSONNEL

A. Number of guards on staff: \_\_\_\_\_

B. Experience of guards on staff:

- 1) Number of guards with 1 to 3 years' experience in security or law enforcement field: \_\_\_\_\_
- 2) Number of guards with 3 to 5 years' experience in security or law enforcement field: \_\_\_\_\_
- 3) Number of guards with more than 5 years' experience in security or law enforcement field: \_\_\_\_\_

C. Experience of guards on staff in Housing Developments:

- 1) Number of guards with 1 to 3 years' experience in security or law enforcement field: \_\_\_\_\_
- 2) Number of guards with 3 to 5 years' experience in security or law enforcement field: \_\_\_\_\_
- 3) Number of guards with more than 5 years' experience in security or law enforcement field: \_\_\_\_\_

D. Number of guards who are off-duty policeman (retired policemen, have law enforcement experience, ex-military police, etc., or additional education in law enforcement): \_\_\_\_\_

3. TRAINING OF PERSONNEL

A. The number of guards listed in 2 (A) who have received the following training:

Weapons training: \_\_\_\_\_

Training in use of mace or pepper spray: \_\_\_\_\_

Training in other defense methods: \_\_\_\_\_

Training in procedure involving deadly force: \_\_\_\_\_

Report Writing: \_\_\_\_\_

Safety: \_\_\_\_\_

Other (Describe): \_\_\_\_\_

4. EQUIPMENT

Guards will have:

- A. Vehicles (with emergency flashing lights):                  Yes                  No
- B. Uniforms    Yes                  No
- C. Phaser or Taser    Yes                  No
- D. Baton    Yes                  No
- E. Pepper Spray / Mace    Yes                  No

5. COMMUNICATIONS

How will you maintain communications with:  
(Describe)

A. Residents: \_\_\_\_\_  
\_\_\_\_\_

B. Local Law Enforcement (Describe your relationship with the law enforcement entities in the areas to be covered by this contract, including a discussion of any factors that might in any way create cooperation problems between you and local law enforcement): \_\_\_\_\_  
\_\_\_\_\_

C. Housing Authority Personnel: \_\_\_\_\_  
\_\_\_\_\_

How long do you anticipate to allow for your response time from the time that Housing Authority personnel attempt telephone contact to the time that the call is returned? \_\_\_\_\_

6. REFERENCES: List references. Must include names, addresses, and phone numbers of at least three (3) references; entities for whom you have performed contract work within the last six (6) months.

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

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

\_\_\_\_\_  
Phone Number: \_\_\_\_\_

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

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

\_\_\_\_\_  
Phone Number: \_\_\_\_\_

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

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

\_\_\_\_\_  
Phone Number: \_\_\_\_\_

7. In regard to proposal price, the scoring will be as follows:

$$Score = \frac{\textit{Lowest Bidder's Price}}{\textit{Bidder's Price}} \times 25$$

**Selection Factors:**

- d. Experience of the company (40 points): Including number of years providing on-site Security Services. The BHA reserves the right to contact any party that the proposer has worked for in the past and to reject a proposer based on past poor performance.
- e. Organizations qualifications (30 points): Training experience and longevity of staff; training programs; quality of operating policies and personnel procedures.
- f. Cost (30 points): **Cost** (fees), weighted, based on lowest price at 30 points

**EXHIBIT C:**  
**CERTIFICATION REGARDING DEBARMENT OR SUSPENSION**

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all Proposers submitting a response to this RFP.

1. The Proposer certifies that, to the best of its knowledge and belief, that neither the Proposer nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or non-procurement programs, or are listed in the List of Parties Excluded from Federal Procurement and Non-procurement Programs issued by the General Services Administration.
  
2. “Principals, “ for the purpose of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
  
3. The Proposer shall provide immediate written notice to the BHA Executive Director if, at any time prior to award, the Proposer learns that this certification was erroneous when submitted or has become erroneous by reason of changes in circumstances.
  
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Proposer rendered an erroneous certification, in addition to other remedies available to the BHA, the BHA Executive Director may terminate the contract resulting from this solicitation for default.
  
5. Proposer affirms that it has no record of recent unsatisfactory performance with BHA, during the past twenty-four (24) months at a minimum.

**Printed Name of Representative:** \_\_\_\_\_

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

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**EXHIBIT D:**  
**NON-COLLUSIVE AFFIDAVIT**

I, \_\_\_\_\_, certify that I am \_\_\_\_\_  
\_\_\_\_\_ of the company providing the proposal for and in behalf of said  
firm by authority of its governing body and within the scope of its powers.

I further certify that no member of this company has colluded with any other person or company in regard to  
the proposal submitted

CONTRACTOR

Date: \_\_\_\_\_, 2022

By: \_\_\_\_\_

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

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

SWORN TO AND SUBSCRIBED BEFORE ME on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

NOTARY PUBLIC

My commission expires:

(seal)

\_\_\_\_\_

**EXHIBIT E:**  
**CONTRACT**  
**between**  
**BOONEVILLE HOUSING AUTHORITY**  
**and**  
**CONTRACTOR for SECURITY SERVICES**

This agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between the BHA, hereinafter called the “Authority” and \_\_\_\_\_, hereinafter called the “Contractor”;

WITNESSETH THAT the Authority desires to obtain from the Contractor security services as shown in the Specification for Security Services, which is made a part of this contract and that the Authority and the Contractor, for the consideration herein, mutually agree as follows:

ARTICLE 1. The Contractor agrees to perform professional services in accordance with Specifications for Security Services, which is made a part of this contract.

ARTICLE 2. For services rendered by Contractor, the Authority agrees to pay a fee in the amount of:  
\$ \_\_\_\_\_ ( \_\_\_\_\_ Dollars & 00/100 \_\_\_\_\_ )  
For Security Services for BHA properties located as listed in the Specifications for Security Services.

ARTICLE 3. The Contractor agrees to provide professional security services along with any and all equipment, vehicles, and supplies necessary for performance of the contract, as outlined in Specifications for Security Services, which is a part of this contract from \_\_\_\_\_ through \_\_\_\_\_ for a period of 24 months. Contractor shall be solely responsible for any and all expenses incurred by the Contractor in performance of this contract, including payment of the salaries/compensation of employees or agents of the Contractor and all automotive and other expenses. Contractor shall assure that all employees or agents of Contractor are fully equipped.

ARTICLE 4. To the fullest extent permitted by law, **Contractor** agrees to fully defend, indemnify and hold harmless **Housing Authority and its employees, officers, and agents**, from and against all losses, expenses, liens, claims, demands, damages, or causes of action of every kind or character whatsoever, for injury to or death of any persons or damage to property, including costs, attorney’s fees and settlements, arising out of or in any way related to **Contractor’s** operations under this agreement.

**Contractor** shall maintain the following minimum insurance coverages for the duration of the contract with carriers having a current A.M. Best Rating of A-:VI or better. Such limits are minimum limits and do not serve as a cap on **Contractor’s** liability under this contract.

A. Worker’s Compensation Insurance

Limits – Statutory benefits for the Stat in which operations are being performed

Employers’ Liability Insurance

Limits \$1,000,000 each accident



\$1,000,000 each employee – disease

\$1,000,000 policy limit – disease

B. Commercial General Liability Insurance

Limits \$1,000,000 each occurrence

\$2,000,000 general aggregate

\$1,000,000 products/completed operations aggregate

\$1,000,000 personal injury and advertising coverage

C. Business Automobile Liability

Limits \$1,000,000 each occurrence

**Contractor** shall name **Housing Authority** as additional insured for both ongoing and completed operations on the general liability policy. Additional insured on the general liability policy shall be accomplished by use of the ISO endorsement CG 20 10 and CG 20 37 or equivalent. **Contractor** agrees to include **Housing Authority** as an additional insured for automobile liability. All policies shall provide a waiver of subrogation in favor of **Housing Authority** and shall be primary and noncontributory with any cover of **Housing Authority**. **Contractor** shall provide **Housing Authority**, at **Contractor's** expense and prior to any entry on **Housing Authority's** property, certificates of insurance and endorsements evidencing the coverage required in this agreement. Failure of **Housing Authority** to require such evidence of coverage or **Housing Authority's** acceptance of a non-compliant certificate of insurance does not waive the insurance requirements of this contract.

ARTICLE 5. This contract shall consist of the following component parts:

1. Request for Proposal
2. Instructions to Offerors Non-Construction
3. Certifications and Representations of Offerors
4. Statement of Work
5. Competitive Proposal
6. Security Service Questionnaire
7. Contract
8. Insurance Certificates
9. General Conditions for Non-Construction Contracts

ARTICLE 6. The Contract shall not assign nor transfer any interest in the contract, except that claims for monies due or to become due him from BHA under the contract may be assigned to a bank, trust company, or other financial institution.

ARTICLE 7. Monthly statements are to be sent to BHA as of the end of each month and payment will be due no more than 30 days from receipt of an invoice, provided there are no errors in the bill that require correction by the contractor.

ARTICLE 8. The parties agree that this is an independent contract. For no purpose shall the Contractor or its agents or employees, be deemed to be the employees or agents of BHA, nor shall any such individual represent himself/herself, expressly or impliedly, to be an employee or agent of BHA.

Contractor shall indemnify and hold BHA harmless of and from, the claims of any person, be it tenant of BHA, employee or agent of Contractor, or otherwise, for personal injury, death, property damage or other claim for compensation which said indemnity agreement shall include the obligation of Contractor to defend, at the sole expense of contractor or contractor’s insurer any such claims asserted against BHA, which have as their subject matter events arising from this independent contract or actions or omissions of the employees or agents of Contract and Contractor shall discharge any judgment or settlement and reimburse BHA for any and all expenses incurred by BHA as a result thereof, including but not limited to, court costs, attorney’s fees, witness fees, and any and all expenses, directly or indirectly related thereto.

ARTICLE 9. Contractor has inspected all of the premises which are the subject of this independent contract and accepts the said premises on an “as is” basis.

ARTICLE 10. Contractor and contractor’s employees or agents shall not unduly expose any individual to danger and shall perform this independent contract in a fashion so as to assure that no claims will be asserted by any individual resulting from a claim of intentional, negligent or gross negligent actions or omissions of contractor and/or contractor’s agents and employees.

ARTICLE 11. This contract may be terminated without cause, at any time, by the giving of thirty (30) days advance written notice by either party to the other party. Termination for cause shall not require thirty (30) days advance written notice.

THIS instrument, together with the other documents enumerated in Article 5, which said other documents are as fully a part of this contract as if hereto attached or herein repeated, form the contract.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in two original counterparts, as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESS:

BOONEVILLE HOUSING AUTHORITY

\_\_\_\_\_

\_\_\_\_\_

Christopher McKissick, Executive Director

ATTEST:

CONTRACTOR

\_\_\_\_\_

\_\_\_\_\_

Secretary

President

**EXHIBIT F**

**HUD FORM 5370C**

# General Conditions for Non-Construction Contracts

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

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

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

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

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

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

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

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

#### 3. Termination for Convenience and Default

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

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

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

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

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

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

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

**6. Energy Efficiency**

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

**7. Disputes**

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

**8. Contract Termination; Debarment**

**9. Assignment of Contract**

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

**10. Certificate and Release**

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

**11. Organizational Conflicts of Interest**

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

**12. Inspection and Acceptance**

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

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

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

### 13. Interest of Members of Congress

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

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

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

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

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

## 16. Equal Employment Opportunity

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

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

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

## 17. Dissemination or Disclosure of Information

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

## 18. Contractor's Status

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

## 19. Other Contractors

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

## 20. Liens

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

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

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



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

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

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

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

**EXHIBIT G**

**HUD FORM 5369C**

# Certifications and Representations of Offerors Non-Construction Contract

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

## 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

## 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

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Signature & Date:

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Typed or Printed Name:

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Title:

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