

**HOUSING AUTHORITY OF THE COUNTY OF CHESTER**

**REQUEST FOR PROPOSAL**

**FOR**

**WATER TREATMENT**

**ISSUED SEPTEMBER 2017**

## REQUEST FOR PROPOSALS

The Housing Authority of the County of Chester (HACC), a recipient of federal assistance through the U.S. Department of Housing and Urban Development (HUD), hereby gives public notice of its intent to solicit bids for the procurement of water treatment for four (4) of its assets for a period of two (2) years with options to renew annually up to a maximum of five (5) years.

Qualified firms are invited to submit a proposal for this contract to the HACC no later than 2:00 p.m. October 12<sup>th</sup> 2017. Proposals will be evaluated and the firm whose proposal is most advantageous to the HACC will be selected. Complete details of this Request for Proposal may be obtained by contacting Robin Senss, Director of Supportive Services and Special Programs, Housing Authority of the County of Chester, 30 W. Barnard Street, Suite 2, West Chester, PA 19382 at [RSenss@haccnet.org](mailto:RSenss@haccnet.org).

The HACC is an equal opportunity agency which does not discriminate against any person because of race, color, age, religion, sex, national origin, handicap or familial status. The HACC solicits and encourages Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) and Section-3 Business participation in all of its contracts.

Dale P. Gravett  
Executive Director

## REQUEST FOR PROPOSAL

### I. GENERAL INFORMATION

The Housing Authority of the County of Chester (HACC) Pennsylvania is seeking proposals from qualified firms for Water Treatment Services in accordance with the Scope of Work specified in this Request for Proposal (RFP).

A mandatory pre-proposal conference is scheduled for **Tuesday September 26<sup>th</sup>, 2017 at 10:30 AM** held in the Community Room at Maple and Spruce Courts;

**125 South Penn Street**

**West Chester, PA 19382.**

The conference agenda is:

1. Review of the requirements of the RFP
2. Question and answer period.
3. Tour of two locations which are representative of the four assets with similar heating and cooling systems.

### II. SCOPE OF SERVICES

HACC is requesting proposals for the services of a firm that can provide a complete service-oriented water treatment program. The water treatment program will include all hot water heating systems and all cooling towers. In addition, the water treatment program will include all equipment, products and professional consulting services to accomplish the following:

1. Reduce fuel and electrical consumption through improved heat transfer efficiency by minimizing scale, corrosion, fouling and microbiological growth.
2. Minimize repair and maintenance costs associated with replacement and cleaning of equipment due to scale, corrosion, fouling or microbiological activity.
3. Provide professional, knowledgeable and involved sales/service personnel to ensure program success.
4. Accurately monitor program results and communicate appropriate recommendations with quantifiable business oriented justifications.
5. Thoroughly train HACC personnel on the implementation and control of the program.
6. Provide competitive water treatment program costs.

#### Program Administration

HACC will require that the awarded firm provide an Administration Notebook at each facility. At a minimum this notebook must contain an outline of the program, all control test

procedures, log sheets, product bulletins, material safety data sheets, feed and control equipment specifications and service reports. Please provide a summary of how your firm administers and manages a water treatment program and provide an example of your companies Administration Notebook.

### **Equipment Inspection**

Thorough equipment inspection is important in determining the effectiveness of a water treatment program as well as potential problems for a given system. The awarded firm must have the capability of inspecting HACC's equipment and providing a written report detailing the inspection results. Please provide a copy of a previously conducted equipment inspection.

### **Representative Experience**

The vendor shall appoint a member of his/her company, plus one authorized alternate to represent the company in dealings with HACC. Both representatives shall be familiar with all aspects of water treatment. List name, educational background, years in water treatment industry and years with the vendor for each appointed representative.

### **References**

Vendor shall submit a list of three (3) present customers handled by the representatives listed above. HACC reserves the right to contact or visit customers so listed. Be sure to include the customer's name, address, contact name and contact phone number.

### **Service Level and Response Time**

Both of the vendors' representatives must live within two (2) hours driving distance of West Chester. A representative shall visit all of the HACC facilities a minimum of once every thirty (30) days. The representatives must be available for calls on specific problems should they occur. The representatives shall be available to HACC on a twenty-four (24) hour basis and under emergency circumstances should be able and willing to visit the facilities within four (4) hours after being notified. Please indicate compliance with this requirement.

### **Subcontractors**

All subcontractors and the specific services they will provide along with their license numbers must be listed in your proposal and approved by HACC in advance.

### **Locations of Service**

Before submitting a proposal, the vendor shall make an examination of the two representative premises and determine in advance the methods of installing the water treatment equipment and/or apparatus.

**Borough of West Chester, PA 19380**

***East-end:***

Spruce Court, 501 E Miner St., comprised of one two-story structure, with 12 apartments.

Maple Court, 508 E Barnard St., comprised of two two-story structures, with 12 apartments.  
501 E Barnard St., comprised of one two-story structure, with 4 apartments.

Office/Commons Building, 125 South Penn St., a one story building containing offices, storage and a common area for the tenants.

Both Maple and Spruce Courts are served by a central hot water system located in the lower level of the Office/Commons Building. Two modulating boilers provide hot water radiant heat in a closed loop system to each of the 24 apartments. There is NO central cooling.

***West-end:***

222 North Church St.

One 4 story building with 28 studio & 31 one-bedroom units. Church Street is served by two 800,000 BTU modulating boilers which provides hot water to 58 water source heat pumps located throughout the building. The boilers also serve heat exchangers for the domestic hot water system and therefore will need to remain in operation at a reduced capacity for 12 months out of the year. Cooling is provided via a closed circuit Evapco cooler located on grade behind the building. The cooler was provided with a “Smart Shield” package for water treatment but was only in service for the first 12 months of operation.

**Borough of Phoenixville, PA 19460**

King Terrace, 300 High St.

One 3 story building with 30 studio and 20 one-bedroom apartments. Similar to Church Street, King Terrace is served by two modulating boilers providing hot water to 50 water source heat pumps located throughout the building. The cooling is provided via a closed circuit Evapco cooler located on grade behind the building. This cooler was also provided with a “Smart Shield” water treatment package and is not currently in operation.

**Borough of Oxford, PA 19363**

Oxford Terrace, 326 Market St. comprised of one 4 story building with 25 studio and 23 one-bedroom units. Oxford is served by two modulating commercial boilers that provide hot water radiant heat throughout the building. Cooling is provided via through-wall units and is not part of the scope of services.

**Program Costs**

Proposals must include a detailed breakdown for water treatment services in the following areas: closed loop treatment, cooling system treatment, testing, monthly service, predicted chemical costs, testing equipment and reagent costs, and any other items deemed necessary. HACC understands that estimated chemical costs are projected based on the information gathered regarding system volumes, use patterns and installed equipment.

The awarded firm will be required to provide and install all special equipment and controls required. Chemicals, if necessary, are to be purchased on an as needed basis with total annual costs not to exceed the sum provided in the proposal, based on your firms experience with similar sized facilities.

Please provide a list of all testing equipment and reagents required for proper testing. The cost of such equipment and reagents shall be included in the proposal for the contract period of 2 years.

Product prices must be F.O.B. destination, freight prepaid.

Pricing must be firm for a period of two years from the date of acceptance of the proposal.

### **III. SUBMISSION REQUIREMENTS**

Responses should include the following:

#### **PART A:**

1. Company Information
  - Name of Firm
  - Address
  - Telephone
  - Primary Contact
  - Primary Contact phone number & email address
2. Brief History of the Firm
  - Size of Firm/Number of Local Staff
  - Years in Business
3. Representatives
  - Names of representatives to be assigned to the HACC account
  - Educational background,
  - Years in water treatment industry and
  - Years with the vendor for each appointed representative.
4. References – Provide contact information for three references where the representatives are currently providing service.
5. UNNECESSARILY ELABORATE SUBMISSIONS – Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the Proposer's lack of cost consciousness.

## **PART B:**

Proposers are to provide an outline of the recommended program, all control test procedures, samples of log sheets, product bulletins, material safety data sheets, feed and control equipment specifications and sample service reports for each facility. These documents will be representative of what is used/kept for the duration of the contract with HACC.

Proposers will ensure complete knowledge of the conditions and requirements of this RFP and contract offer. The proposer acknowledges receipt and understanding of all instructions, scope of services, and requirements. No claim for extra compensation will be allowed for the contractor's failure to comply with this requirement. Costs incurred to submit a proposal is the responsibility of the proposer.

The contract shall have no provisions for reimbursable expenses except as noted in the executed contract. The costs of travel, parking, postage, telephone, photocopying, food, and lodging expenses incurred by the Firm and Firm's consultants are considered the Firm's overhead, and must be included in the pricing. These costs cannot be claimed as separate reimbursable expenses.

## **IV. SELECTION CRITERIA**

### **A. EVALUATION CRITERIA**

To perform a fair evaluation that reveals true owning/operating costs we need to consider life cycle cost. For that reason, we will be using your proposed installation cost plus your proposed fifth year annual cost to calculate the cost to own/operate your program.

Vendor shall furnish and install a complete and operational water treatment system. This shall include all items necessary to complete the installation and normally included in similar work whether specifically mentioned or not.

Proposal shall include all necessary water treatment chemicals/devices, testing equipment, testing reagents, feeders, racks, pumps, piping and tubing, piping inserts, electrical service, training and supplier support as required.

1. Firm's Experience [30 points]
  - Statement of firm's qualifications.
  - Service level and response times
  
2. Representatives Experience [30 points]
  - Identification of key personnel, with their qualifications relative to the Scope of Services

- 3. Program Costs & Administration – 2 year contract [20 points]
  - Proposers are to provide an outline of the program, and all costs associated with control equipment, chemicals and tests separated by asset.
  - Quality and usefulness (user-friendly) of the resultant logs, reports and relevant documents.
  
- 4. Life Cycle Costs [20 points]
  - Proposed 5<sup>th</sup> year cost to own/operate the system separated by asset.

**B. OTHER CRITERIA**

1. Certifications, Licenses

- Provide copies of licenses as relevant to work in the Commonwealth of Pennsylvania.

2. References

- Provide three, including names, addresses, email addresses if available, and telephone number.

3. INSURANCE REQUIREMENTS - SUMMARY

Before commencing work, the Contractor shall furnish HACC with Certificates of Insurance showing the following insurance is in force and will insure all operations under the Contract prior to the commencement of any work. Policies shall be effective commencing by the first day of work and are to remain in effect during the life of the Contract. The policies shall name the Contractor as the insured and HACC as an additional insured. The insurance company must be financially sound and admitted to business in the Commonwealth of Pennsylvania.

- The Contractor shall comply with the provisions of any Social Security or Unemployment Insurance Laws, State or Federal, as now or hereafter in force, applying to the work, and accepts exclusive liability and will hold the Housing Authority harmless for any contributions or taxes with respect to the work payable under any said laws.

Worker's Compensation Insurance*	Statutory
Employers Liability	Minimum of 1,000,000 for each type of coverage

*\*=if Sole Proprietorship, Workers Compensation Insurance is not required by Pennsylvania law.*

Commercial General Liability	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)	100,000
	Med Exp. (any one person)	5,000

Auto Liability Combined single limit for: Bodily Injury, Property Damage Liability, Personal Injury, and Contractual Liability of not less than 1,000,000 per occurrence.



Comprehensive Umbrella Liability Insurance not less than 1,000,000

Crime / Fidelity Bond (employee dishonesty) 25,000

**\*\*Builder's Risk (fire and extended coverage) \*\*Not required for this project**

Payments for supplementary costs such as the cost of defending against a claim must be in addition to and not as a reduction of, the limit of liability.

Must be an Occurrence form policy that contains an extended reporting period of at least 5 years.

Cancellation: at least 30 days advance notice is to be given to the insured and any additional insured.

## V. SUBMISSION PROCEDURES

### A. INQUIRIES

All inquiries regarding this RFP must be submitted by email to the attention of: Robin Senss. Mark document: **"QUESTIONS FOR WATER TREATMENT RFP"** Email: [rsenss@haccnet.org](mailto:rsenss@haccnet.org)

**All questions regarding this RFP must be received no later than October 5th, 2017, 10:00 AM.** NOTE: No oral explanation or interpretation will be provided to any respondent. No interpretations shall be considered binding on HACC unless provided in writing by HACC. Any information provided to a prospective respondent concerning this solicitation will be furnished promptly to all other prospective respondents as a written addendum to the solicitation, if that information is necessary for submitting bids or if the lack of it would be prejudicial to other prospective respondents. All respondents will be bound by such addenda, whether or not received by the respondents. HACC reserves the right to issue addenda on its own, irrespective of whether questions or requests for interpretations were received from prospective respondents. Any information obtained by, or provided to, any respondent other than by formal HACC addenda to the solicitation shall not constitute a change to the solicitation.

**DEADLINE FOR SUBMISSION: Friday, October 12<sup>th</sup>, at 2:00PM** at HACC's administrative office located at 30 W Barnard St, Suite 2, West Chester, PA 19382. All submissions must be in writing. Any Proposal submitted after this deadline will not be considered. HACC reserves the right to reject any and all proposal submissions and to request additional information from all respondents

### B. SUBMISSION REQUIREMENTS

1. Number of Copies: Three
2. Proposal Package: 3-Ring Binder, with Tabbed Sections – One for each Evaluation Criteria; one for "Other"; one for mandatory executed forms. ***Include copies of your insurance certificates and W-9.***
3. All submissions shall be clearly labeled with the words: **Proposal for Water Treatment Services. Attention Robin Senss.** All submissions will become part

of the official files of HACC and shall remain valid for ninety days following the deadline for submission. HACC may waive any minor irregularities, technicalities, omissions, and/or errors in the submissions that are received. HACC may cancel this solicitation in its entirety. HACC's reservation of rights shall in no way affect the formation of a contract upon written notice of award by HACC to the successful respondent.

**VI. LIST OF FORMS -**

A. HUD, HACC & Other Forms – to be signed and returned

- HUD 5369-C (8/93), Certification & Representation of Offerors
- HACC P-300 – Non-Collusion Affidavit
- HACC 500.1 Statement of Insurance Coverage
- HACC P-500.2 – Statement of Assurances

- Forms NOT included that must be returned:

- Department of Treasury IRS form W-9

B. HUD & HACC Forms – to be reviewed and understood.

- HUD 5369-B (08/93), Instructions To Offerors, Non-Construction
- HACC P-5370-CC, General Conditions, Consultant
- HACC P-700, Section 3 & E.O. 11246

**Proposal Form**

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

Proposal of \_\_\_\_\_,  
(Name)

A corporation organized and existing under the laws of the State of \_\_\_\_\_; a  
partnership consisting of \_\_\_\_\_; an individual trading as  
\_\_\_\_\_.

Request for Proposal: WATER TREATMENT SERVICE

1. In compliance with your Request for Proposal, the undersigned hereby offers to furnish the services designated in the RFP. Upon written notice of acceptance of this proposal at any time within ninety (90) days after the date of opening of the Proposals, and to execute the Contract in accordance with the Proposal as accepted within five (5) days after the Contract is presented for signature.
2. The undersigned Proposer hereby acknowledges receipt of the following Addenda:

Addendum No.	Date
_____	_____
_____	_____
_____	_____

3. Proposal shall provide a complete water treatment system including all necessary water treatment equipment, chemicals/devices, testing equipment, testing reagents, feeders, racks, pumps, piping & tubing, piping inserts, electrical service, training and supplier support as required. Please provide a detailed description of each of the recommended systems on a separate page.

Maple/Spruce Courts, West Chester

- Heating  
Year 1 \$ \_\_\_\_\_  
Year 2 \$ \_\_\_\_\_  
5<sup>th</sup> Year Owning/Operating Costs \$ \_\_\_\_\_

222 Church Street, West Chester

- Heating  
Year 1 \$ \_\_\_\_\_  
Year 2 \$ \_\_\_\_\_
- Cooling  
Year 1 \$ \_\_\_\_\_  
Year 2 \$ \_\_\_\_\_  
5<sup>th</sup> Year Owning/Operating Costs \$ \_\_\_\_\_

King Terrace, Phoenixville

- Heating  
Year 1 \$ \_\_\_\_\_  
Year 2 \$ \_\_\_\_\_

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- Cooling  
Year 1 \$ \_\_\_\_\_  
Year 2 \$ \_\_\_\_\_  
5<sup>th</sup> Year Owning/Operating Costs \$ \_\_\_\_\_

Oxford Terrace, Oxford

- Heating  
Year 1 \$ \_\_\_\_\_  
Year 2 \$ \_\_\_\_\_  
5<sup>th</sup> Year Owning/Operating Costs \$ \_\_\_\_\_

\_\_\_\_\_  
(Official Name of Firm)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

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

\_\_\_\_\_  
(Complete Business Address)

\_\_\_\_\_  
(Email Address)

\_\_\_\_\_  
(Federal Taxpayer ID Number)

# Certifications and Representations of Offerors

## Non-Construction Contract

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

OMB Approval No: 2577-0180 (exp. 7/30/96)

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

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

### 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

For the purpose of this definition, minority group members are:  
(Check the block applicable to you)

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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

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

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

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

HOUSING AUTHORITY OF THE COUNTY OF CHESTER - BID/RFP DOCUMENTS  
NON-COLLUSION AFFIDAVIT

(NOTE: This document pertains to both *bidders (IFB)* and *proposers (RFP)*)

Contract/Bid/Proposal for:

\_\_\_\_\_

State of: \_\_\_\_\_ County of: \_\_\_\_\_

I state that I am (name and title) \_\_\_\_\_

\_\_\_\_\_

of (name of firm) \_\_\_\_\_

and that I am authorized to make this affidavit on behalf of my firm, and its' owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

- 1) The Price(s) and the total amount of this bid has been arrived at independently and without consultation, communication or agreement with any other contractor, bidder, or potential bidder
- 2) Neither the price(s) nor the total amount of this bid, and neither the approximate price(s) nor the approximate total amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before the bid opening or review.
- 3) No Attempt has been made or will be made to induce any firm or person to refrain from bidding on the Contract, or to submit a bid higher than this bid, or to submit any intentionally high or non complete bid or other form or complementary bid.
- 4) The bid of my firm is made in good faith and is not pursuant to any agreement or discussion with; or inducement from, any firm or person to submit a complementary or other nor competitive bid.
- 5) (name of firm) \_\_\_\_\_ its' affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:
- 6) I state that (name of firm) \_\_\_\_\_ understands and acknowledges that the above representations are material and important and will be relied on by the Housing Authority of the County of Chester in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that any misstatements in this affidavit is and shall be treated as fraudulent concealment from the Housing Authority of the County of Chester of the true facts relating to the submission of bids for this Contract.

I State that I am (name and title) \_\_\_\_\_

\_\_\_\_\_

Sworn and subscribed before me in this day of \_\_\_\_\_

(Notary Public) \_\_\_\_\_ Commission expires: \_\_\_\_\_

NON-COLLUSION AFFIDAVIT

***INFORMATION & INSTRUCTIONS***

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Anti Bid-Rigging Act 73 PA; 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer, or employee of the bidder who makes the final decision on prices and the amount quoted on the bid.
3. Bid-Rigging and other efforts to restrain competition and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate. They should make diligent inquiry, as necessary of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval, or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and Affidavit must be submitted separately on behalf of each party.
5. The term 'Complementary Bid' as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowledgeable submission of bids higher than the bid of another firm, any intentionally high or non-bid and any other form of bid submitted for the purpose of giving a false appearance of completion.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid.



**STATEMENT OF INSURANCE COVERAGE**

Having carefully examined the Insurance Requirements stated in the Invitation for Bid/Request for Proposal, the undersigned hereby certifies that the required types and level of insurance are in force, and that if awarded the contract, will have the Housing Authority of the County of Chester named as an additional insured and provide such Certificate to the Authority.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

STATEMENT OF ASSURANCES

The Undersigned hereby acknowledges that s/he has read, understands, and agrees to the terms and conditions stated in the following forms, especially HUD 5369 (as annotated), HUD 5370EZ as well as all other forms included in this IFB/RFP solicitation.

The Undersigned hereby provides assurance of his/the firm's Ability and Availability to complete all work, as detailed in this IFB/RFP; and to obtain Payment & Performance bonds in the required amounts, as applicable.

The Undersigned hereby provides assurance of his/the firm's responsibility to obtain all required permits for the selected boroughs.

The Undersigned hereby certifies that the firm is authorized to perform work in the selected boroughs and in the Commonwealth of Pennsylvania and that all work performed by the firm shall be in compliance with all applicable laws.

The Undersigned hereby certifies that the prices quoted include *all* costs.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company official address

\_\_\_\_\_  
Company official address

# Instructions to Offerors

## Non-Construction

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

### 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

## HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO

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 an 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.

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 counter offer 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.

Please note that additional conditions, specifications and instructions pertaining to this RFP are contained within the RFP document issued, which this document is Attachment F thereto.

(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,

**General Conditions of the Non-Construction Contract  
Public and Indian Housing Programs**

**CONDUCT OF WORK**

**1. Definitions**

- (a) "Contract" means the contract entered into between the HACC and the consultant. It includes the *Certifications, Representations, and Other Statements of Offerors*, these *General Conditions* of the Contract, any special conditions included elsewhere in the contract.
- (b) "Contracting Officer" means the person delegated the authority by the HACC to enter into, administer, and/or terminate this contract. The terms include any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the HACC in all dealings with the Consultant.
- (c) "Consultant" means the person or other entity entering into the contract with the HACC to perform all of the services required under the contract.
- (d) "HUD" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an *Annual Contributions Contract (ACC)* to provide financial assistance to the HACC, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the HACC for payment to the consultant. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Consultant and HUD.
- (e) "HACC" means the Housing Authority of the County of Chester organized under applicable Pennsylvania state law as the Housing Authority of the County of Chester, and a party to this contract.
- (f) "Work" means materials, workmanship, documents brought by and produced by the Consultant; and services provided by the Consultant.

**2. Consultant's Responsibility for Work**

- (a) The Consultant shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work.
- (b) The Consultant shall be responsible for all damages to persons or properties that occur as a result of the Consultant's fault or negligence. The Consultant shall hold and save the HACC, its officers and employees, free and harmless from liability of any nature occasioned by the Consultant's performance. The Consultant shall also be responsible for all services it or its subcontractor performed until completion and acceptance of the entire work.
- (c) The Consultant's responsibility will terminate when all work has been completed, the final review made, and the work accepted by the Contracting Officer. The Consultant will then be released from further obligation except as required by this agreement.

**3. Review and Acceptance**

The consultant shall review the work product to ensure that the work performed under the contract conforms to contract requirements. All work is subject to HACC review before acceptance to ensure strict compliance with the terms of the contract.

The presence or absence of the HACC Review Officer does not relieve the Consultant from any contract requirement, nor is the Review Officer authorized to change any term or condition of the specifications without the Contracting Officer's written authorization. All instructions and approvals with respect to the work shall be given to the Consultant by the Contracting Officer.

**4. Warranty of Title** *n/a***5. Warranty** *n/a***6. Prohibition Against Liens**

The Consultant is prohibited from placing a lien on the HACC's property.

**7. Energy Efficiency** *n/a***Administrative Requirements****8. Contract Period**

The consultant shall complete all work required under this contract within the time schedule established in the Notice to Proceed issued by the Contracting Officer.

**9. Order of Precedence**

In the event of a conflict between these *General Conditions* and the Statement of Work, the provisions of the *General Conditions* shall prevail. In the event of a conflict between the contract and any applicable state or local law or regulation, the state or local law or regulation shall prevail.

**10. Payments.** *See Contract***11. Cost Limitations**

- a. The parties estimated that performance of this contract, inclusive of all fees, will not cost the HA more than the cost stated elsewhere in this contract.
- b. The HA is not obligated to reimburse the consultant for costs incurred in excess of the estimated cost stated elsewhere in this contract. The consultant is not obligated to continue performance under this contract (including actions under any termination clause) or otherwise incur costs in excess of the estimated cost specified in the contract, until the Contracting officer notifies the consultant in writing that the estimated cost has been increased and provides a revised estimate of a total cost of performing the contract.
- c. No notice, communication, or representation in any form other than that described above or from a person other than the Contracting Officer shall affect the estimated cost of this contract. In the absence of the specified notice from the consultant, the HA is not obligated to reimburse the consultant for any costs in excess of the estimated cost whether those costs were incurred during the course of the contract or as a result of termination.
- d. Approved Change Orders shall not be considered an authorization to exceed the estimated cost to the HA specified in the contract unless they contain a statement increasing the estimated cost.

## 12. Contract Modifications

- a. Only the Contracting Officer has authority to modify any term or condition including cost and scope of work of this contract. Any contract modification shall be authorized in writing.
- b. The HACC may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (**13. Changes**); or (2) for administrative matters which do not change the rights or responsibilities of the parties (*e.g.*, change in the HACC address). All other contract modifications shall be in the form of supplemental agreements signed by the Consultant and the Contracting Officer.

## 13. Changes

- a. The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a Change Order, make changes in the work within the general scope of the contract including:
  - (1) In the statement of work or specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) HACC-furnished facilities, equipment, materials, services, or site; or,
  - (4) Directing the acceleration in the performance of the work.
- b. Any other written or oral order (which is used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a Change shall be treated as a Change Order under this clause provided that the Contracting Officer gives the Consultant written notice stating (1) the date, circumstances and source of the order and (2) that the Consultant regards the order as a Change Order.
- c. Except as provided in this clause, no order, statement or conduct of the Contracting Officer or any other person shall be treated as a Change under this paragraph or entitle the Consultant to an equitable adjustment.
 

d. If any Change under this paragraph causes an increase or decrease in the Consultant's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 30 days before the Consultant gives written notice as required.

e. The Consultant must submit any proposal under this paragraph to the Contracting Officer within 30 days after (1) receipt of a written change order under subparagraph (a) above, or (2) the furnishing of a written notice under subparagraph (b) above. The proposal shall include a written statement describing the general nature and the amount of proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under subparagraph (b) above. No proposal by the Consultant for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- f. The Consultant's written proposal for equitable adjustment shall be submitted in the following form:
 

Proposals shall be submitted in the form of a lump sum proposal with supporting information to clearly relate elements of cost with specific items of work involved to the satisfaction of the Contracting Officer. The maximum amount for this lump sum approach shall be determined by the Contracting Officer, but in no case shall it exceed 30% of the value of the initial contract.
- g. The Consultant shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.

- h. The Contracting Officer shall act on proposals within 30 days after their receipt.
- i. Failure to reach an agreement on any proposal shall be a dispute under clause **15. Disputes** herein. Nothing in this clause, however, shall excuse the Consultant from proceeding with the contract as changed.
- j. No change shall be made by the Consultant without a prior written order from the Contracting Officer.

#### **14. Suspension of Work**

- a. The Contracting Officer may order the Consultant in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the HACC.
- b. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Consultant or for which any equitable adjustment is provided for or excluded under any other provision of this contract.
- c. A claim under this clause shall not be allowed (1) for any costs incurred more than twenty (20) days before the Consultant shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

#### **15. Disputes**

- a. All disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof that are not disposed of by agreement, shall be resolved under this clause.
- b. All claims by the Consultant shall be made in writing and submitted to the Contracting Officer. A claim by the HACC against the Consultant shall be subject to a written decision by the Contracting Officer.
- c. The Contracting Officer shall, with reasonable promptness, but in no event in no more than ten (10) days, render a decision concerning any claim hereunder. Unless the Consultant, within 30 days after receipt of the Contracting Officer's decision, shall notify the Contracting Officer in writing that it takes exception to such decision, the decision shall be final and conclusive.
- d. Provided the Consultant has (1) given the notice within the time stated in paragraph (c) above, and (2) accepted its claim relating to such decision from the final release, and (3) brought suit against the HACC 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 Consultant has had a reasonable time to respond to a written request by the HACC that it submit a final voucher and release, whichever is earlier, then the Contracting Officer'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 Consultant 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 Contracting Officer.



**16. Default**

a. If the Consultant refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will ensure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Consultant, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In this event, the HACC may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials necessary for completing the work. The Consultant and its sureties shall be liable for any damage to the HACC resulting from the Consultant's refusal or failure to complete the work within the specified time, whether or not the Consultant's right to proceed with the work is terminated. This liability includes any increased costs incurred by the HACC in completing the work.

b. The Consultant's right to proceed shall not be terminated or the Consultant charged with damages under this clause if-

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Consultant. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the HACC or other governmental entity in either its sovereign or contractual capacity, (iii) fires, (iv) floods, (v) epidemics, (vi) quarantine restrictions, (viii) unusually severe weather; and

(2) The Consultant, within ten (10) days from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision that shall be subject to the provisions of clause **15. Disputes** herein.

c. If, after termination of the Consultant's right to proceed, it is determined that the Consultant was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for the convenience of the HACC.

**17. Liquidated Damages – not applicable for this contract. If the consultant fails to perform the scope of services as stated in the contract, the contract can be terminated.**

**18. Termination For Convenience**

a. The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the HACC. Any such termination shall be effected by delivery to the Consultant of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.

b. If the performance of the work is terminated, either in whole or in part, the HACC shall be liable to the Consultant for reasonable and proper costs resulting from such termination which costs shall be paid to the Consultant within 90 days of receipt by the HACC of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the consultant; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the HACC to the Consultant or by the Consultant to the sub consultant or supplier; (3) the cost of preserving and protecting the work already performed until the HACC or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the HACC; and (5) an amount constituting a reasonable profit on the value of the work performed by the Consultant.

c. Any disputes with regard to this clause are expressly made subject to the provisions of clause **15. Disputes.**

**19. Assignment of Contract**

The Consultant shall not assign or transfer any interest in this contract, except that claims for monies due or to become due from the HACC under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. If the Consultant is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by the Contracting Officer.

**20. Subcontracts**

a. The Consultant shall not enter into any subcontract with any other person(s) who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the State in which the work under this contract is to be performed.

b. The Consultant shall be as fully responsible for the acts or omissions of its sub-consultants, and of persons either directly or indirectly employed by them.

c. The Consultant shall insert appropriate clauses in all subcontracts to bind sub-consultants to the terms and conditions of this contract insofar as they are applicable to the work of sub-consultants.

d. Nothing contained in this contract shall create any contractual relationship between any sub-consultant and the HACC, or between the sub-consultant and HUD.

**21. Subcontracting with Small and Minority Firms, Women’s Business Enterprise, and Labor Surplus Area Firms....n/a for this contract.**

**22. Equal Employment Opportunity clauses c through j not applicable to Consultancy work**

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

(a) The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Consultant 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.

**23. Equal Opportunity for Businesses and Unemployed and Underemployed Persons (HUD Act of 1968, Sec.3) n/a for Consultancy work.**

**24. Interest of Members of Congress**

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

**25. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees**

No member, officer, or employee of the HACC, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the HACC 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.

**26. Limitations on Payments Made to Influence Certain Federal Financial Transactions**

- a. The Consultant agrees to comply with Section 1352 of title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and 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, or the modification of any Federal contract, grant, loan, or cooperative agreement.
- b. The consultant further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) 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 in connection with a Federal contract, grant, loan, or cooperative agreement.

**27. Royalties and Patents**

The Consultant shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the HACC harmless from loss on account thereof; except that the HACC shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Consultant has no reason to believe that the specified design, process, or product is an infringement. If, however, the Consultant has reason to believe that any design, process or product specified is an infringement of a patent, the Consultant shall promptly notify the Contracting Officer. Failure to give such notice shall make the Consultant responsible for resultant loss.

**28. Rights in Data and Copyrights**

Except as provided elsewhere in this clause, the HACC shall have unlimited rights in data first produced in the performance of this contract.

**29. Examination and Retention of Consultant's Records**

- a. The HACC, 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 Consultant'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 periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the clause above titled **16. Disputes**, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the HACC, 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.

### **SECTION 3 REQUIREMENTS & EXECUTIVE ORDER 11246**

**Section 3 Requirements.** In accordance with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR, PHAs and their contractors and subcontractors shall make best efforts, consistent with existing Federal, State, and local laws and regulations to give low- and very low-income persons the training and employment opportunities generated by Section 3-covered assistance (as this term is defined in 24 CFR 135.3(1)) and to give Section 3 business concerns the contracting opportunities generated by Section 3 covered assistance.

Compliant contractors will meet the employment, training, and contracting objective of Section 3 by providing opportunities for training and employment to “lower-income persons” (Public Housing Resident or individual whose income does not exceed 80% of the Median Income for the area) who reside within the unit of local government or the metropolitan area (or non-metropolitan County) in which the project is located.

**Contracting and/or Sub Contracting with business concerns:**

- That are 51% or more owned by Section 3 residents; or
- Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- That provide evidence or a commitment to Sub-Contract in excess of 25% of the dollar award of all Sub-Contracts to be awarded to business concerns that meet the qualifications set forth above, which are located in or owned (in a substantial part) by persons residing in the same metropolitan area (or non-metropolitan County) as the project.

A description of a HUD Wage rate Schedule can be obtained from the web. HUD may issue an addendum to the wage rate determination for Apprentice/Trainee, as appropriate. Special wage rate determinations may be granted by HUD for programs that involve employing employees such as Challenged Individuals or Disadvantaged Youth.

#### DESCRIPTIONS

**WHAT IS SECTION 3:**

It is a means by which HUD fosters local economic development, neighborhood economic improvement, and individual self-sufficiency. Section 3 is the legal basis for providing jobs for residents and awarding contracts to businesses in areas receiving certain types of HUD financial assistance. Recipients of HUD financial assistance and their Contractors and Sub-Contractors are required to provide economic opportunities, to the greatest extent feasible, consistent with existing Federal, State, and Local laws and regulations.

Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is given for housing or community development, to the greatest extent feasible, economic opportunities will be given to residents and businesses in that area.

Section 3 Policy:

Congress established the Section 3 policy to ensure that the employment and other economic opportunities generated by Federal Financial Assistance for Housing and Community Development programs shall, to the Greatest Extent Feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing.

Who are Section 3 Residents?

Residents of public housing and low-income persons who live in the area in which a HUD assisted project is located.

What is a Section 3 Business?

A business that is owned by Section 3 residents or employs Section 3 residents in full-time positions or Sub-Contracts with businesses which provide economic opportunities to low income persons.

How can businesses find Section 3 residents to work for them?

Businesses can recruit in the neighborhood and Public housing developments to tell residents about available training and job opportunities. Distributing flyers, posting signs, placing ads, and contacting resident organizations and local community development and employment agencies to find potential workers are effective ways to contact Section 3 businesses and residents.

Will HUD require compliance?

Yes, HUD receives annual reports from recipients of HUD financial assistance, monitors the performance of Contractors, and investigates complaints. HUD examines employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 businesses.

**Executive Order 11246 (Equal Employment Opportunity).n/a for Consultant Services.**

Contracts for construction work in connection with Projects under this part are subject to Executive Order 11246 (3 CFR, 1964-65 Comp., p. 339), as amended by Executive Order 11375 (3 CFR, 1966-70 Comp., p. 684), and to applicable implementing regulations (24 CFR part 130; 41 CFR chapter 60), rules, and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor (DOL). Executive Order 11246 prohibits discrimination and requires affirmative action to ensure that employees or applicants for employment are treated without regard to their race, color, religion, sex, or national origin. Compliance with E.O. 11246, and related regulations, Orders, and requirements shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act.