

**REQUEST FOR PROPOSALS (RFP) #19-PHD-001
Youth Enrichment Program Services in Fairbanks, Alaska**

The Alaska Housing Finance Corporation (AHFC) will receive proposals for Youth Enrichment Program Services in Fairbanks, Alaska.

Beginning April 10, 2019, copies of the above noted RFP may be obtained from:

Alaska Housing Finance Corporation
4300 Boniface Parkway
Anchorage, Alaska 99504
(907) 330-8146
FAX: (907)330-8217
E-mail address: submittals@ahfc.us

The RFP may also be obtained on AHFC's website at <https://www.ahfc.us/pros/notices/requests-proposals/>

IMPORTANT NOTICE: You should register with the Procurement Department at submittals@ahfc.us or at 907-330-8239 to receive subsequent addenda. Failure to contact the Procurement Department may result in the rejection of your proposal.

Any questions regarding this RFP must be received by **4:00 p.m. May 1, 2019**, and be directed to:

Andrew Morton, Procurement Manager
4300 Boniface Parkway
Anchorage, Alaska 99504
Telephone: (907)330-8146
Fax: (907)330-8217
Email address: submittals@ahfc.us

Proposals will be received by AHFC until **4:00 p.m. May 7, 2019** via one of the following methods:

US Mail	Hand deliver or Express Mail	Email	FAX
PO Box 101020 Anchorage, AK 99510	4300 Boniface Parkway Anchorage, AK 99504	submittals@ahfc.us	907-330-8217

Minority and women-owned businesses are encouraged to submit proposals.

AHFC is an equal opportunity employer.

ALASKA HOUSING FINANCE CORPORATION


 Gregory Rochon
 Chief Procurement Officer



Request for Proposal (RFP)

**Youth Enrichment Program Services
In**

FAIRBANKS, ALASKA

RFP# 19-PHD-001

April 2019

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SECTION 1 GENERAL INFORMATION

The purpose of this Request for Proposals (RFP) is to locate an organization to provide a year-round, after school youth enrichment program. The proposed program will provide public housing youth (ages 5-11) a chance to reinforce and increase their individual talents and creativity in a safe, nurturing environment and give them a sense of accomplishment. The organization awarded this contract will be required to include a plan to encourage parental involvement and development of a stronger family unit. The services solicited in this RFP will be provided on-site at Birch Park public housing development located at 505 Stewart Street, Fairbanks, Alaska. AHFC will provide program/activity space, access to kitchen facility and basic custodial services.

The initial term of the Contract(s) will be three (3) years. At AHFC's option, the Contract may be extended for up to two (2) additional one-year periods. In submitting a proposal to be considered for the RFP, the respondent understands and agrees there is no minimum or maximum guarantee of work or dollar amount under the Contract.

Respondents submitting proposals to the RFP must not be debarred, suspended, or otherwise prohibited from professional practice by any Federal, State, or Local Agency.

AHFC is an equal opportunity employer.

IMPORTANT NOTICE: If you received this solicitation from AHFC's Notices website (<https://www.ahfc.us/pros/notices/>) or any of the Plans Rooms, you should register with the Sourcing and Contract Compliance Office listed on this document to receive subsequent amendments. Failure to contact the Sourcing and Contract Compliance Office may result in the rejection of your offer.

SECTION 2
REQUIREMENTS FOR RFP - FIRM RESPONSE

2.1 SUBMISSION OF QUESTIONS:

Firm shall carefully review this RFP for defects and questionable or objectionable material. Questions concerning defects or questionable material must be delivered IN WRITING ONLY to the Sourcing and Contract Compliance Office on or before **4:00 p.m., May 1, 2019** via e-mail submittals@ahfc.us or fax (907) 330-8217. Copies of questions received, along with a written response from AHFC, will be emailed/faxed and/or mailed to Firms who are registered to receive this solicitation.

2.2 SUBMISSION OF PROPOSALS:

Proposals submitted in response to this RFP must remain valid for at least ninety (90) calendar days from the date AHFC designates as the deadline for submitting proposals, plus any addenda or extensions to the RFP, and for an additional contractual term if the firm should enter into a Contract with AHFC to perform work or provide services as described in this solicitation.

Read each criterion in light of the Scope of Work. Plan your proposal to address the applicable criteria.

Prepare a distinct Response for each criterion. Failure to respond directly to any criteria may result in an evaluation score of zero for that criteria. Acceptable responses must be specific and directly related to AHFC's Scope of Work. Marketing brochures, marketing resumes, and other non-project specific materials will be discarded without evaluation and should not be submitted.

Each criterion response must be titled, numbered and assembled in the order in which the criteria are listed.

Complete all entries on the Proposal Form. Note the requirements for Alaska business licenses and professional registrations. Copies of licenses and registrations may be provided with submittal.

Number of copies of Proposal (***all pages***) and Criteria Responses (***except Billing Rates, and Price Proposals***) required in response the RFP is: **Five (5) plus One (1) copy provided via electronic file on a flash drive.**

The maximum number of attached pages (***each printed side equals one page***) for Criteria Responses shall not exceed: **10 (ten) pages**. Attached page limit does not include the Offeror Statement of Qualifications, resumes, required submittals (attachments) any Billing Rates or Price Proposals, or any attached copies of business and professional licenses.

Criteria Responses shall be presented in **8-1/2" X 11" format**, except for a minimal number of larger sheets (e.g. 11" x 17") that may be used (e.g. for schedules) if they are

folded to 8-1/2" X 11" size. Large sheets will count as multiple pages at 93.5 square inches or fraction thereof per page, unless otherwise noted.

CAUTION: Criteria Responses, which do not comply with the required page limit or presentation size, may result in disqualification. Further, small print or typeface that is difficult to read may negatively influence evaluation of your submittal and affect scoring.

If ***Billing Rates and/or Price Proposals*** are required, one copy bound with one staple in the upper left corner separately enclosed in a sealed envelope marked on the outside to identify it as a Billing Rates or Price Proposal and the names of the Project and Offeror. Each Billing Rates or Price Proposal must be signed and dated by the person who prepares it (may be different signatures for each Subcontractor).

Firm's proposals must arrive at the below address and be date/time stamped no later than **4:00 p.m. May 7, 2019**. Deliver the submittals in one sealed package and **mark the outside of the package to identify the Project and the Offeror**. Proposals will be accepted via email, if desired. Failure to meet this deadline will result in rejection of the proposal and the proposal will be returned to Firm without further consideration.

Alaska Housing Finance Corporation
4300 Boniface Parkway
Anchorage, Alaska 99504
Attention: Andrew Morton, Administrative Manager, Procurement
(907) 330-8146
Fax: (907)330-8217
E-mail address: submittals@ahfc.us

2.3 RESERVATIONS:

The Corporation reserves the right to accept or reject any or all proposals. The Corporation may require proposals to be clarified supplemented through additional written submissions.

AHFC will not be subject to payment for costs incurred for proposal preparation or Contract preparation as a result of valid and legal termination of this RFP or termination of any contract resulting from the award of the RFP.

2.4 CONTRACTUAL AGREEMENTS:

The basic agreement between the parties shall be the Contract for Service Coordinator Services, plus attachments. A sample contract is included as Attachment 5.3 to this RFP (the Contract).

The apparent successful Firm(s) will be required to sign the Contract in the same form as the sample Contract. Objections to any of the provisions in the sample Contract must be expressed and submitted in the Firm's proposal or all provisions of the Contract will be determined accepted as written.

Unless stated otherwise herein, the basic and governing language of the contractual agreement resulting from this solicitation shall be comprised of the Contract, this RFP,

including all documents, any attachments and amendments, and the successful Firm's signed proposal. In the event of a conflict between the documents, the Contract shall govern.

2.5 TERM OF CONTRACT:

The Contract term will be three (3) years with two (2) additional one-year periods at the sole discretion of AHFC. The agreement may be terminated by either party for any reason with 30-day written notice.

The AHFC Contract Administrator, or his/her designee, will administer any Contract that results from this solicitation. Contact with other staff, if necessary, will be coordinated through the AHFC Contract Administrator, or his/her designee.

2.6 MANDATORY INFORMATION TO BE PROVIDED:

The respondent's proposal should be organized and presented in the following format and progression.

Although firms are encouraged to provide any/all information which they wish to be considered in support of their proposal, **Firms must, at a minimum, submit the following information:**

2.6.1 DOCUMENTS WHICH CLEARLY DEMONSTRATE THAT THE INDIVIDUAL/FIRM MEETS THE FOLLOWING QUALIFICATIONS:

Respondents must satisfy certain minimum standards to be considered qualified to provide services to AHFC. Respondents may meet these requirements through the use of qualified individuals of the Offeror or subcontractors in response to the evaluation criteria.

Respondents are strongly encouraged to review the minimum qualifications specified in this section to avoid submitting a proposal that would immediately be rejected on technical grounds or as non-responsive. **Failure to clearly demonstrate that the firm meets all minimum requirements of this RFP may automatically disqualify the firm's proposal from further consideration by AHFC.**

(A) The proposal should clearly demonstrate and present documentation proving that the respondent is an experienced and reputable firm, the firm (and key team members) qualifications, including information demonstrating the following:

- Three (3) or more years experience providing youth development programs and services similar to this RFP.

Firm must submit a fully-completed and signed Offeror Statement of Qualifications form which is enclosed as Attachment 5.2. **At a minimum, all information required by the form and attachments thereto must be submitted.**

2.6.2 INSURANCE, BONDING, LICENSES:

The Firm should submit, in writing, the ability to provide the required insurance certificates and/or bonding requirements set out in Section 33 of the Contract (Attachment 5.3).

The Firm should submit a copy of their Alaska business license, and a copy of their real estate license.

2.6.3 OFFEROR STATEMENT OF QUALIFICATIONS FORM:

Proposals must include a fully completed and signed Offeror Statement of Qualifications form. At a minimum, the information required by the form and attachments thereto must be submitted; other data may also be included as deemed relevant by the Firm.

2.6.4 COST/FEE PROPOSAL:

Firms must provide the Cost/Fee Proposal Form provided as Attachment 5.1 to this solicitation. Failure to provide cost information on the form provided may result in rejection of Firm's proposal as non-responsive.

Costs/fees must be quoted in U.S. funds and include applicable federal duty, Firm fees, and transportation costs in order that all services may be provided without further cost. Costs/fees quoted must be exclusive of federal, State and local taxes.

The Corporation will not reimburse the Firm for any expenses or other costs in addition to the agreed-upon fees.

SECTION 3 SCOPE OF SERVICES

3.1 INTRODUCTION: The primary purpose of this RFP is to locate an organization to provide a year-round, after-school youth enrichment program. The proposed program will provide public housing youth (ages 5-11) a chance to reinforce and increase their individual talents and creativity in a safe, nurturing environment and give them a sense of accomplishment. The organization awarded this contract will be required to include a plan to encourage parental involvement and development of a stronger family unit.

3.2 SITE OF PERFORMANCE: The services solicited in this RFP will be provided on-site at the Birch Park public housing development located at 505 Stewart Street, Fairbanks, Alaska. AHFC will provide program/activity space, access to kitchen facility and basic custodial services.

3.3 ELIGIBLE ACTIVITIES AND EXPENDITURES: A successful Offerer may expend funds for instructional staff, supplies, and program costs related to providing youth enrichment activities. Providing healthy snacks during youth program hours is an eligible cost under this program. Funds may not be expended for indirect or administrative costs that cannot be directly tied to this contract. Administrative costs cannot exceed 10 percent of the total amount requested from AHFC.

3.4 SAMPLE PROGRAM DESIGN: School Year: AHFC encourages creativity in designing the program and is interested in vendors that not only address the needs of public housing youth but receive support and participation from parents. Services shall be provided from approximately 3:00 p.m. to 6:00 p.m. each weekday during school at the Birch Park Community Room (505 Stewart St) for approximately 20 youths, ages 5 to 11. One or two monthly 'family night' activities shall also be included in the proposal. Summer: During the summer, services shall be provided for approximately six hours each day (12-6, M-F). Collaborative agreements and/or partnerships with other community agencies for the provision of specialized youth enrichment activities (such as joint field trips/day camps) are encouraged.

3.5 REPORTING AND BILLING: A narrative report of attendance numbers and activities conducted must be submitted monthly to the contract administrator. The successful Offerer will be required to provide a categorized billing statement at least quarterly.

SECTION 4 EVALUATION CRITERIA

EVALUATION OF PROPOSALS:

The Corporation will appoint an evaluation committee to review the proposals submitted. Evaluations will be based solely on the evaluation factors set out in this Section of the RFP.

At the sole discretion of AHFC, finalists for consideration of award may be required to make an oral presentation to the evaluation committee. The oral presentation may be considered in the evaluation of the Offeror's proposal, and overall scores may be adjusted at the discretion of the evaluation committee. If scheduled, oral presentations will be limited to a 30-minute presentation by the Offeror, followed by a maximum 45-minute question and answer period. All costs associated with the oral presentation shall be the responsibility of the Offeror.

Any proposals received by AHFC that may be missing any or all of the mandatory information required by this RFP will be determined to be non-responsive and will not be evaluated by the Corporation. Firms must ensure that their proposal has included each and every item listed under Section 2.6 (Minimum Qualifications and Mandatory Information to be provided) and has thoroughly responded to all requirements and provisions of Section 2.6.1 through 2.6.2. The Corporation will not be responsible for notifying Firms of any deficiencies in proposals.

4.1 EVALUATION SCORING: The evaluation committee will use the following percentages of weighing when reviewing proposals:

4.1.1 COVER LETTER (5%)

Introduce firm to AHFC.

- a. Name of Firm
- b. Name(s) of Principals
- c. Office Address
- d. Office Telephone
- e. Office Fax
- f. Email Address
- g. Professional License Type
- h. Professional License State
- i. Date company founded/opened

4.1.2 OFFERORS CAPACITY/EXPERIENCE (25%)

Describe the following: 1. Offeror firm's history and experience providing youth development programs; 2. Number of staff to be dedicated to this program; 3. Qualifications of the staff dedicated to this program; and 4. Administrative experience in contract management and maintaining cooperative working relationships with social service organizations, school districts, etc.

The Offeror must provide references from at least three (3) current or prior accounts that the Offeror firm provides with services similar to the services required under this RFP. Use the text box provided with each of the following requests for a reference to enter: a. The name of the firm; b. The name and telephone # of the person the Offeror's staff worked with on a daily basis; and c. The name of the person that managed the account on behalf of the Offeror firm.

4.1.3 METHODOLOGY AND MANAGEMENT (30%)

Describe the planned approach for delivering the Youth Development Program for AHFC. Include any aspects unique to the Offeror's firm in providing this program. Provide an organizational chart specific to the personnel who will be assigned to accomplish the work described in this RFP. Illustrate lines of authority, names of individuals responsible for the completion of each deliverable identified by this RFP.

4.1.4 PROGRAM COST PROPOSAL (40%)

Offerors must submit the Cost/Fee Proposal form provided as Attachment 5.1 to this solicitation. Failure to provide cost information on the form provided may result in rejection of Offeror's proposal as non-responsive. Include all miscellaneous charges applicable in performing indirect costs, such as copying, telephone, supplies, etc.

4.2 AWARD FACTORS:

If applicable, the Procurement Manager or his/her designee will conduct negotiations with responsive and responsible Firms whose proposal, when considered with all other proposals submitted in response to this solicitation, best meet the needs of AHFC.

Upon selection of successful Firms, AHFC will issue a "Notice of Intent to Award". Copies of this Notice of Intent to Awards will be emailed/faxed and/or mailed to all Firms who submitted proposals in response to this RFP.

4.3 UNAUTHORIZED NEGOTIATIONS:

In no event shall a prospective Firm, or the apparently successful Firm, enter into discussions or negotiations with representatives of AHFC other than the Procurement Manager, or his/her designee.

4.4 OTHER FACTORS/REQUIREMENTS:

News releases pertaining to this RFP may not be made without prior written approval of the AHFC Government Relations and Public Affairs (GRPA).

In accordance with AHFC Procurement regulations, all proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to issuance of the Notice of Intent to Award a contractual agreement. Thereafter, proposals will become public information.

SECTION 5 ATTACHMENTS

The following materials are included to assist in responding to this RFP:

- 5.1 Cost/Fee Proposal Form
- 5.2 Offeror Statement of Qualifications
- 5.3 Sample Professional Services Contract
- 5.4 Form HUD-5369-B Instructions to Offerors
- 5.5 Form HUD-5369-C Certifications and Representations of Offerors
- 5.6 Form HUD-5370-C Section I General Conditions for Non-Construction Contracts

COST/FEE PROPOSAL FORM

TO BE COMPLETED BY OFFEROR:

This Cost/Fee Proposal Form is submitted as part of a proposal in response to the solicitation entitled **YOUTH ENRICHMENT PROGRAM SERVICES FOR FAIRBANKS, ALASKA (RFP #19-PHD-001)**.

The name of the Offeror firm is:

INSTRUCTIONS FOR COMPLETING FORM:

Fixed Annual Fee for each year (i.e. \$12,000 x 3 years = \$36,000 for the Total Contract Amount).

Fixed Annual Fee			
Youth Enrichment Program Services for Fairbanks, Alaska.	\$_____ per year	Times (X) 3	\$_____ Total Contract Amount

Additional Optional Years: Upon completion of the initial three-year Contract term, AHFC may send a Contract Amendment to the successful Offeror to extend the Contract for two additional one-year periods. At this time, the successful Offeror may request an increase to the annual fee by submitting a detailed explanation for the increase.

PREPARED BY:

(Name)

(Title)

(Date)

OFFEROR'S SIGNATURE:

By signature on this document, the Offeror certifies that all terms and conditions, including fee or price quotes submitted as a part of the Offeror's response to this solicitation shall remain effective for a period of not less than ninety (90) days from the date AHFC designates as the deadline for submitting proposals; plus any addenda or extensions to the RFP, and for an additional contractual term, if the Offeror should enter into a Contract with AHFC to perform work or provide services as described in this solicitation. The Offeror further acknowledges and agrees that its proposal and all other material submitted will become the property of AHFC.

NOTE: FAILURE BY OFFEROR TO SIGN AND DATE THIS COST/FEE PROPOSAL FORM WILL RESULT IN AHFC REJECTING THE OFFEROR'S PROPOSAL AS NON-RESPONSIVE.

Offeror Signature and Date of Signature

Typed or Printed Name of Offeror

Title

Company Name/Tax I.D. Number

Mailing Address

Telephone Number

Fax Number

Email

OFFEROR STATEMENT OF QUALIFICATIONS
Attachment 5.2

TO BE COMPLETED BY OFFEROR:

This Offeror Statement of Qualifications is submitted as part of a proposal in response to the solicitation entitled Youth Enrichment Program Services in Fairbanks, Alaska RFP #19-PHD-001

The name of the Offeror firm is: _____

INSTRUCTIONS FOR COMPLETION STATEMENT OF QUALIFICATIONS:

Respond to every question or blank space provided on this statement of qualifications. If the information required is not applicable, enter "N/A". If the statement of qualifications does not provide enough space to adequately respond to any question or request for information, enter "see attached explanation" in the space provided, and attach the additional pages of information. Clearly identify the portion of the statement of qualifications you are responding to, and attach the information in the proper order.

The Offeror's submission is not limited to information or documentation required by this statement of qualifications. The Offeror is encouraged to submit additional or supplemental information to substantiate Offeror's experience and qualifications.

OFFEROR STATEMENT OF QUALIFICATIONS

BY A PROPERLY AUTHORIZED SIGNATURE ON THIS DOCUMENT, OFFEROR HEREBY CERTIFIES AND AFFIRMS THAT:

Section I: Disclosure, Pledges and Promises

1. The proposal submitted to AHFC is genuine, not collusive or a sham; the Offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other Offeror or person, to submit a sham proposal, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price submitted by Offeror or submitted by any other Offeror, or to fix any terms, conditions, overhead, profit or cost element of said proposal, or of the proposal of any other Offeror, or to secure any advantage against AHFC or any person interested in the proposed Contract; and that all statements in said proposal are true.

The Offeror has not, and will not disclose the terms and conditions of the proposal, directly or indirectly, to any other Offeror or interested person prior to Contract award unless otherwise required by law.

2. Each signature on the proposal and all addenda are considered to be a certification by the signatory that the signatory:

- a. Is the person from the Offeror's organization responsible for determining the prices and terms being offered in the proposal, and that the signatory has not participated and will not participate in any action contrary to Paragraph 1 above; and
- b. 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 Paragraph 1 above.

(Insert full name of person(s) in the Offeror's organization responsible for determining the prices and terms offered in the proposal, and the title of his or her position in the Offeror's organization.)

- c. As an authorized agent of the Offeror, does certify that the principals named in Paragraph 2, Section b, have not participated and will not participate in any action contrary to Paragraph 1 above.
 - d. As an authorized agent of the Offeror, has not personally participated and will not participate in any action contrary to Paragraph 1 above.
3. The Offeror represents that, except for full-time bona fide employees working solely for the Offeror, the Offeror:
- a. () has, () has not, employed or retained any person or company to solicit or obtain the AHFC Contract resulting from RFP #19-PHD-002; and
 - b. () has, () has not, paid or agreed to pay any person or company employed or retained to solicit or obtain the AHFC Contract resulting from RFP #19-PHD-002, any commission, percentage, Firm or other fee contingent upon or resulting from the award of a Contract.

If the answer to 3a or 3b above is affirmative, the Offeror shall include a full and written disclosure attached to this affidavit and addressed to the AHFC Procurement Manager.

The Offeror acknowledges and agrees that any misrepresentation made by the Offeror subject to Paragraphs 3a and 3b above shall give AHFC the right to (1) terminate any subsequent Contract; (2) at its sole discretion, deduct from Contract payments the amount of any commission, percentage, Firm or other contingent fee; or (3) take other remedy pursuant to the Contract.

4. To the best of Offeror's knowledge and in good faith, it is the Offeror's belief that the following named AHFC employees or AHFC Board of Directors members may have a financial, business,

or familial interest, direct or indirect, in or with the Offeror or Offeror's representative: (If none, so state.)

AHFC Employee Name/Job Title

AHFC Board of Directors Member(s)

Explanation of nature of AHFC employee or Board member interest with Offeror or Offeror's representative: (If none, so state.)

The Offeror () is, () is not, an employee of AHFC. If the Offeror has previously served as an employee of AHFC, the Offeror certifies that his/her service was terminated () less than twenty-four (24) months ago, or () more than twenty-four (24) months ago.

5. The Offeror does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed or services to be supplied under the proposed AHFC Contract, and the Offeror's organizational, financial, contractual, or other interests may:
- a. Result in an unfair competitive advantage to the Offeror; or
 - b. Impair the Offeror's objectivity in performing the Contract work or providing the Contract services.

If the Offeror cannot respond affirmatively to 5a and 5b above, the Offeror shall include a full and written disclosure attached to this affidavit and addressed to the AHFC Procurement Manager.

6. Neither the Offeror, nor any person or firm which has an interest in the Offeror's firm, is ineligible to:

- a. Be awarded contracts by any agency of the United States Government, HUD, AHFC, or the State of Alaska.

7. The Offeror certifies that:

- a. It has paid all required fees and is properly licensed and bonded to do business in the State of Alaska and within the local governing body in which any work or services subsequent to RFP #19-PHD-002 is to be performed or provided.
- b. It complies and will comply with all laws of the State of Alaska, the applicable portions of the Federal Civil Rights Act of 1964, and the Equal Employment Opportunity Act as regulated by the State and federal governments.
- c. The Offeror certifies that all terms and conditions, including fee or price quotes submitted as a part of the Offeror's response to this solicitation shall remain effective for a period of not less than ninety (90) days from the date AHFC designates as the deadline for submitting proposals, plus any addenda or extensions to the RFP, and for an additional contractual term if the Offeror should enter into a Contract with AHFC to perform work or provide services as described in this solicitation. The Offeror acknowledges and agrees that its proposal and all other material submitted will become the property of AHFC.
- d. No action, suit, proceeding, inquiry or investigation before or by any court or federal, State, municipal or other governmental authority is pending, or to the Offeror's knowledge is threatened against Offeror or affecting the assets, properties, or operations of the Offeror or its interests, which if determined adversely to Offeror would have material and adverse effect upon the consummation of transactions contemplated by, or the validity of, agreements between AHFC and the Offeror, or upon the financial condition, assets, properties or operations of Offeror. No employee employed by the Offeror's firm, or the Offeror's firm itself has been debarred, suspended or otherwise prohibited from practice by any federal, State or local agency.
- e. If the Offeror is unable to affirmatively certify any statement under Paragraph (d) above, the Offeror shall include a full and written disclosure attached to this affidavit and addressed to the AHFC Procurement Manager.

8. The Offeror firm is responding as a joint-venture: (Check the statement which applies)

a. Yes; copies of the joint venture agreement, all applicable business licenses are attached to this Affidavit.

b. Not applicable.

OFFEROR'S SIGNATURE

By signature on this document, the Offeror hereby certifies that all statements contained herein are accurate and complete.

Offeror's representations concerning its qualifications will be construed as a covenant under any Contract subsequent to this RFP. Should it appear that Offeror has made a material misrepresentation on this Offeror Statement of Qualifications form, AHFC shall have the right to terminate the Contract for Offeror's breach, and AHFC may then pursue such remedies as exist under the Contract, or as otherwise are provided by law.

NOTE: OFFEROR'S FAILURE TO SIGN AND DATE THIS STATEMENT OF QUALIFICATIONS WILL RESULT IN REJECTION OF THE OFFEROR'S PROPOSAL AS NON-RESPONSIVE.

Offeror Signature and Date of Signature

Typed or Printed Name of Offeror

Title

Company Name

Tax I.D. Number

Alaska Business License Number

Mailing Address

Telephone Number

Fax Number

Email Address

(SAMPLE-ONLY)
Youth Enrichment Program Services in Fairbanks, Alaska
Attachment 5.3

This contract (the Contract) is made between _____ (the Contractor) and the Alaska Housing Finance Corporation (AHFC).

GENERAL PURPOSE OF CONTRACT

The purpose of this Contract is to establish the Contractor as approved to provide services as required by AHFC; and to define Contractor's duties and obligations, and the rights of the parties.

Contractor and AHFC agree as follows:

1. **CONTRACT IN ITS ENTIRETY:** This Contract represents the entire understanding between AHFC and Contractor. No prior oral or written understandings shall have any force or effect with respect to any matter covered in this Contract or in interpreting this Contract. This Contract shall only be modified or amended by written amendment executed by all parties
2. **INCORPORATION BY REFERENCE:** The following documents are incorporated by reference into this Contract:
 - A. RFP #19-PHD-001, addendums, attachments, etc.; and
 - B. Contractor's proposal submitted to AHFC.
3. **EFFECTIVE DATE:** This Contract is not effective until the date upon which it is signed by AHFC.
4. **TERM OF PERFORMANCE:** The performance of activities under this Contract shall commence on July 1, 2019 and end on June 30, 2022. AHFC shall extend this Contract by providing written notice to the Contractor at least sixty (60) calendar days before the Contract expiration date.

If the Contract expires before a fully executed amendment is signed by both parties; the Contract shall be considered terminated and may not be continued.

Any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least 30-days before the desired date of cancellation.

The Contract may be terminated by either party subject to Paragraph 11 or by AHFC subject to Paragraph 12.

5. **CONTRACTOR'S DUTIES.** Contractor shall diligently perform for AHFC all of its duties under this Contract and/or any written instructions by AHFC. All work performed by

the Contractor is subject to inspection, evaluation, and approval by AHFC. AHFC may employ all reasonable means to ensure that the work both progresses and is performed in compliance with the Contract.

Contractor shall have no liability for defects in the services attributable to Contractor's reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by AHFC, third parties retained by AHFC, or in the public domain. Contractor, shall not be responsible for the verification of any documents or other information provided by AHFC and relied upon by Contractor in performing the services.

In performing the services, Contractor may be required to make certain assumptions or forecasts of conditions, events, or circumstances that may occur in the future. Contractor will take reasonable efforts to assure that assumptions and forecasts made are reasonable and the basis upon which they are made follow generally accepted practices for such assumptions or projections under similar circumstances. AHFC expressly acknowledges that actual results may differ significantly from those projected as influenced by conditions, events, and circumstances that actually occur.

6. **TRAVEL.** If Contractor must travel in order to perform services or complete work as required by this Contract, all travel must be approved by AHFC in writing, and in advance. Travel expenses include, but are not limited to: coach class airfare or other commercial carrier tourist class fare, mid-sized car rental, necessary excess baggage fees, meal allowances at the applicable state or federal rate, and moderately-priced lodging costs.
7. **NO ADDITIONAL WORK OR MATERIALS.** No claim for additional services that are not specifically provided in this Contract, that are performed or furnished by the Contractor, will be allowed unless AHFC has ordered the work in writing, and in advance of the work being performed or the materials being provided.

AHFC and the Contractor agree to negotiate an acceptable compensation for any additional work. Before AHFC may agree to compensate the Contractor for additional work, the Contractor must provide AHFC with detailed cost and pricing data based upon the work to be performed and the schedule for delivery of work product.

Any additional work must be documented as a written amendment to this Contract and must be dated and signed by both parties prior to the work commencing.

8. **KEY PERSONNEL.** Any change in the key personnel of the Contractor responsible for performing work under this Contract must be approved in writing by AHFC.

Upon receipt of documentation that demonstrates that the proposed replacement personnel possess at least equivalent communications skills, specialized knowledge and technical experience comparable to the personnel to be replaced, AHFC may not unreasonably withhold such approval.

9. **COMPENSATION.** Compensation for services will be paid at the rates identified in the Cost/Fee Proposal Form (Attachment 5.1).

No payment will be made until the Contract is approved and signed by the AHFC Administrative Services Director, or designee. AHFC is not responsible for and will not pay local, state or federal taxes on work performed under this Contract. All costs associated with the Contract must be stated in U.S. currency.

- 10. REIMBURSEMENT.** Any costs or expenses Contractor incurs performing Contractor's duties under this Contract are to be borne by Contractor and will not be reimbursed by AHFC except as provided in this Contract.
- 11. TERMINATION BY CONTRACTOR.** The Contractor's duties under this Contract may be terminated in whole at any time at the option of the Contractor, upon thirty (30) days written notice to AHFC.
- 12. TERMINATION BY AHFC.** AHFC, by written notice, may terminate this Contract in whole or in part, as follows:
 - A.** for any reason upon ninety (30) days written notice to Contractor;
 - B.** for Contractor's breach of any term of this Contract upon written notice to Contractor of the breach. A breach of this Contract includes, but is not limited to, Contractor's failure to comply with the Contract, including:
 - 1) Contractor's failure to maintain adequate insurance and/or bonding;
 - 2) Contractor's failure to comply with any federal, State, or local law, regulation, order, or judicial precedent that applies to Contractor;
 - 3) the dissolution or the commencement of any action or proceeding for the liquidation of the Contractor, or for the appointment of a receiver or trustee of the property of the Contractor;
 - 4) the insolvency of Contractor, the adjudication of Contractor as bankrupt, the appointment of a receiver for Contractor, the execution by Contractor of a general assignment for the benefit of Contractor creditors, or other material change in Contractor's status. Contractor's interest in this Contract is not an asset of Contractor or Contractor's successors or assigns, and no interest in this Contract may pass by operation of law without the express written consent of AHFC;
 - 5) a substantial change in the ownership of Contractor, including but not limited to, a sale of the majority interest in Contractor or a change in the corporate status of a Contractor without the prior written consent of AHFC;
 - 6) if a professional services contract, a substantial change in the experience or qualifications of Contractor's staff assigned to perform services under this Contract without AHFC's express written approval;

- 7) a finding by a court that Contractor, or any principal of Contractor, committed an act of civil fraud, or a conviction of Contractor or any principal of Contractor of a crime for acts related to Contractor's business;
- 8) any revocation or suspension of Contractor's State of Alaska business license, or any determination by any professional board censuring Contractor in any manner;
- 9) any action or inaction on the part of the Contractor which results in a lien being filed against AHFC or results in AHFC dispensing funds to prevent lien action, provided, Contractor shall have ten (10) days from receipt of written notice to (i) remedy the same, or (ii) commence proceedings to remedy the same and proceed diligently in remedying the same;
- 10) failure of Contractor to pay subcontractors, suppliers, laborers, applicable State or federal taxes, provided, Contractor shall have ten (10) days from receipt of written notice to (i) remedy the same, or (ii) commence proceedings to remedy the same and proceed diligently in remedying the same.

- C. Whether or not AHFC has notified Contractor of the Contract termination under Subsection B, AHFC may take any action that in its discretion is reasonable to protect itself from Contractor's breach of this Contract.
- D. Failure of AHFC to terminate this Contract for Contractor's breach under Subsection B does not waive that right or any other right under this Contract.
- E. AHFC is liable only for payment in accordance with the compensation provisions of this Contract for services rendered before the effective date of any termination of this Contract.

13. TERMINATION NOT A RELEASE. Termination of this Contract by either AHFC or Contractor under Sections 11 or 12 of this Contract does not release Contractor from any obligations or liability under the Contract unless AHFC expressly releases Contractor in writing. Upon termination of the Contract by either AHFC or Contractor, Contractor must assist in an orderly transfer of all files, notes, draft reports, or other work product related to this Contract to the offices of AHFC or to any successor or custodian designated by AHFC (in writing).

14. INDEMNIFICATION. The Contractor shall indemnify, save harmless and defend AHFC and the State, its officers, agents, and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission, or negligent act of the Contractor, its subcontractors, or anyone directly or indirectly employed by Contractor in the performance of this Contract.

All actions or claims, including costs and expenses, resulting from injuries or damage sustained by any person or property arising directly or indirectly from Contractor's performance under this Contract which are caused by the joint negligence of AHFC and the Contractor shall be apportioned on a comparative-fault basis. Any such joint negligence on the part of AHFC must be a direct result of active involvement by AHFC.

- 15. NO ASSIGNMENT OR DELEGATION.** This Contract is a personal services Contract and Contractor may not assign or delegate this Contract, or any part of it, or any right to any compensation or reimbursement paid under it, except with the express written consent of AHFC, provided, Contractor may subcontract portions of the services to its related entities. The required consent shall not be unreasonably withheld, conditioned or delayed.
- 16. NOTICE.** Any notice given to AHFC under this Contract must be in writing and must be sent by registered mail or certified mail, return receipt requested, addressed to:

Administrative Services Director
Alaska Housing Finance Corporation
4300 Boniface Parkway
Anchorage, Alaska 99504

Any notice given to Contractor under this Contract, must be in writing and must be sent by registered mail or certified mail, return receipt requested, addressed to:

- 17. OWNERSHIP OF RECORDS.** All records related to work performed by Contractor for AHFC under this Contract, including but not limited to documents, reports, recommendations, analysis, work produced in any form including intellectual property, computerized data files, and other media or papers of whatever kind or description (hereinafter called "records") whether or not developed or originated by Contractor are the sole property of AHFC.

At all times, each party shall retain all of its rights in its drawing details, designs, specifications, databases, models, computer software, copyrights, trade and service marks, patents, trade secrets, and any other proprietary property.

Nothing contained in this Section shall be construed as limiting or depriving Contractor of its rights to use its basic knowledge and skills to design or carry out other projects or work for itself or others, whether or not such other projects or work are similar to the work to be performed pursuant to this Contract.

Contractor shall have the right to retain and use copies of drawings, documents, and other data furnished by or to be furnished by Contractor and any non-confidential information contained therein.

AHFC shall not acquire any rights to any of Contractor's, its subcontractor's or vendor's proprietary computer software that may be used in connection with the services except as expressly provided in Exhibit A or as may be separately agreed in writing.

Contractor, upon AHFC's written request, shall deliver immediately all records to AHFC or as AHFC otherwise dictates in writing. Contractor may not condition in any manner whatsoever, the delivery of records. Any records that Contractor has retained on microfilm or otherwise condensed, must be reproduced promptly, at no cost to AHFC.

Unless all records have been delivered to AHFC, Contractor shall retain all records in its possession relating to the performance of this Contract for a period of three (3) years from completion of the project, or until notified by AHFC of final resolution of any audit findings, claims, or litigation related to the Contract, whichever is later.

- 18. EXAMINATION OF RECORDS.** Contractor shall permit any person designated by AHFC, at any reasonable time during regular business hours, and upon twenty four (24) hour notice, to examine and make audits of any and all of the records related to the services. Contractor shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or as a percentage of other costs.
- 19. PRIOR CONTRACTS.** This Contract supersedes any prior Contracts and understandings between AHFC and the Contractor relating to the subject matter of this Contract. However, the provisions of this paragraph do not operate to release Contractor or AHFC from any responsibilities or liability that may have arisen under any prior Contract related to the subject matter of this Contract.
- 20. PERMITS.** The Contractor shall be solely responsible and financially responsible for obtaining all required permits, licenses, and/or approvals to comply with municipal, borough, state and federal authority to operate Contractor's own business. The Contractor, as part of its services, may assist AHFC with obtaining permits and/or approvals for project work performed under this Contract, however, the Contractor shall not be financially responsible for the costs of such project-related permits and/or approvals.
- 21. SAFETY.** The Contractor shall be solely responsible for initiating, managing and supervising all safety precautions and procedures related to, and arising out of, the Contractor's work under this Contract.

The Contractor shall take all necessary precautions to ensure the safety of all persons on the work site, whether the Contractor's employees or not. The Contractor shall comply with all applicable laws, ordinances, rules and regulations of any authority having jurisdiction over the safety of persons, or of the safe use of materials and equipment.

- 22. CONFIDENTIALITY.** The Contractor acknowledges that AHFC will provide it with certain confidential and proprietary information to enable it to perform under this Contract. Contractor agrees that it will protect and keep confidential all such information that AHFC provides to it and will undertake to maintain the same standard of care and security to protect the confidential information as Contractor uses to protect its own confidential and proprietary information, provided Contractor shall be under no liability to treat the information received as confidential unless AHFC advises Contractor at the time of disclosure that said information is confidential.

Contractor's confidentiality obligation hereunder shall not extend to information which: (i) at the time of disclosure, is or becomes a part of the public domain by publication or otherwise through no fault of Contractor; (ii) Contractor can show was in its possession at the time of disclosure; or (iii) is subsequently disclosed to Contractor by a third-party, which information Contractor reasonably believes has not been wrongfully acquired, directly or indirectly.

Contractor shall not be restricted in any way from releasing information, including confidential information, in response to a subpoena, court order, or other legal process, or as may be legally compelled by any tribunal or governmental or regulatory authority, but in such event, shall notify AHFC of the demand for information before Contractor responds to such demand.

Contractor agrees to limit distribution of the confidential information to those of its employees who are performing work under the Contract. The confidential information may not be distributed to third-parties without the express written consent of AHFC. Contractor agrees that, upon completion of the Contract, it will return the originals and all copies of the confidential information to AHFC.

- 23. COPYRIGHT.** Contractor acknowledges that the work product developed under this Contract is a work for hire specifically commissioned by AHFC. Contractor agrees that AHFC is entitled to the copyright in all technical materials, reports, drawings, manuals, or other work product developed pursuant to this Contract and Contractor hereby releases and waives any claim it may have to such copyright.
- 24. NON-WAIVER OF RIGHTS.** No waiver or default of any part of this Contract by AHFC shall operate as a waiver of any subsequent default of any part of this Contract that is to be performed by Contractor. Consent or notice by AHFC shall not be construed as consent or notice in the future.
- 25. THIRD PARTIES NOT BENEFITED.** It is specifically agreed by the parties that they do not intend by any provisions of any part of this Contract to create in the public or any member hereof a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to initiate a suit for damages pursuant to this Contract.
- 26. DISPUTES.** Any dispute arising under this Contract that is not disposed of by mutual agreement shall be decided in accordance with the appropriate AHFC authority governing contract disputes or controversies.

27. **INDEPENDENT CONTRACTOR.** The Contractor and any agents, employees and officers of the Contractor act in an independent capacity and are not officers or employees or agents of AHFC in the performance of this Contract.
28. **GOVERNING LAW.** This Contract is governed by the laws of the State of Alaska. Any actions brought as a result of this Contract shall be brought in the courts for the State of Alaska in the Third Judicial District in Anchorage, Alaska.
29. **OFFICIALS NOT TO BENEFIT.** Contractor must comply with all applicable State or federal laws regulating ethical conduct of public officers and employees.
30. **CAPTIONS, SEVERABILITY.** The captions and headings of the paragraphs of this Contract are for convenience only and are not to be used to interpret or define the provisions of this Contract. If any provision of this Contract conflicts with applicable law, the conflict does not affect the other provisions of this Contract which can be given effect without the conflicting provision. The provisions of this Contract are declared to be severable.
31. **FUNDING.** Notwithstanding any other provision of this Contract, funding to support this Contract is contingent upon legislative approval of AHFC's annual operating budget. AHFC's fiscal year is July 1 through June 30.
32. **CONTRACT ADMINISTRATOR NOTICE.** Each party to this Contract shall designate a Contract Administrator. This person must be authorized to act on behalf of and bind their respective organization. The authority of the Contract Administrator cannot be assigned, delegated or changed without written amendment to this Contract.

Any notice given to AHFC under this Contract must be in writing and must be sent by registered mail or certified mail, return receipt requested, addressed to the AHFC Contract Administrator.

33. **INSURANCE.** Without limiting Contractor's indemnification, it is agreed that Contractor will purchase at its own expense and maintain in force at all times during the performance of services under this Contract, the following described policies of insurance.

Contractor must provide the required insurance certificates as described below to AHFC within ten (10) working days of Notice of Intent to Award. AHFC will not sign a contract, issue a notice to proceed, or make any payment absent the required insurance certificates.

AHFC Risk Management reserves the right, but not the obligation, to review and revise any of the following insurance requirements, based on insurance market conditions which may affect the availability or affordability of coverage; or based on changes in the scope of work or specifications that apply to this Contract. In addition, AHFC Risk Management reserves the right, but not the obligation, to review and reject any insurance policies failing to either meet the necessary criteria or that have been provided by an insurer in poor financial condition or legal status.

The requirements contained herein, as well as AHFC Risk Management review or acceptance of insurance maintained Contractor is not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Insurance policies required to be maintained by Contractor will name AHFC as additional insured for all coverage except Workers' Compensation, Professional Liability/E&O insurance, and specialized construction policies if determined acceptable to AHFC Risk Management.

Contractor and its subcontractors agree to obtain a waiver, where applicable, of all subrogation rights against AHFC, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor and its subcontractors for AHFC. However, this waiver shall be inoperative if its effect is to invalidate in any way the insurance coverage of either party.

Where specific limits are shown, it is understood that they will be the minimum acceptable limits. If the Contractor's policy contains higher limits, AHFC will be entitled to coverage to the extent of such higher limits. The coverages and/or limits required are intended to protect the primary interests of AHFC, and the Contractor agrees that in no way will the required coverages and/or limits be relied upon as a reflection of the appropriate types and limits of coverage to protect Contractor against any loss exposure whether a result of this Contract or otherwise.

Failure to furnish satisfactory evidence of insurance or lapse of any required insurance policy is a material breach and grounds for termination of this Contract.

Workers' Compensation Insurance: Contractor will provide and maintain, for all employees of the Contractor engaged in work under the Contract, Workers' Compensation Insurance as required by AS 23.30.045. Contractor shall be responsible for ensuring that any subcontractor that directly or indirectly provides services under this Contract has Workers' Compensation Insurance for its employees. This coverage must include statutory coverage for all States in which employees are engaging in work and employer's liability protection for not less than \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e., USL & H and Jones Acts) must also be included.

Commercial General Liability Insurance: Contractor will provide and maintain Commercial General Liability Insurance with not less than \$1,000,000 per occurrence limit, and will include premises-operation, products/completed operation, broad form property damage, blanket contractual and personal injury coverage. Coverage shall not contain any endorsement(s) excluding or limiting contractual liability nor providing for cross liability.

Automobile Liability Insurance: Contractor will provide and maintain Automobile Liability Insurance covering all owned, hired and non-owned vehicles with coverage limits not less than \$1,000,000 per occurrence bodily injury and property damages. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for hired and non-owned liability which may be satisfied by endorsement to the CGL policy or by separate Business Auto Liability policy.

Umbrella or Excess Liability: Contractor may satisfy the minimum liability limits required above for CGL and Business Auto under an umbrella or excess liability policy. There is no minimum per occurrence limit under the umbrella or excess policy; however the annual aggregate limit shall not be less than the highest per occurrence limit stated above. Contractor agrees to endorse AHFC as an additional insured on the umbrella or excess policy unless the certificate of insurance states that the umbrella or excess policy provides coverage on a pure "true follow form" basis above the CGL and Business Auto policy.

Certificates of Insurance: Contractor agrees to provide AHFC with certificates of insurance evidencing that all coverages, limits and endorsements as described above are in full force and effect and will remain in full force and effect as required by this Contract. Certificates shall include a minimum thirty (30) day notice to AHFC of cancellation or non-renewal. The Certificate Holder address shall read:

Alaska Corporation for Affordable Housing
Alaska Housing Finance Corporation
Risk Management Department
4300 Boniface Parkway
Anchorage, Alaska 99504
Fax (907) 330-8217
risk@ahfc.us

Information for Insurance Agents/Firms: Contractor is strongly encouraged to provide its insurance agent/Firm with a copy of the insurance provisions of this Contract in order that the Contractor may timely obtain and maintain the required insurance and/or bonding.

34. ADDITIONAL PROVISIONS.

A. EQUAL OPPORTUNITY EMPLOYMENT. Contractor certifies that it complies with the applicable portions of 42 U.S.C. 1971, 1975 and 2000 of the Civil Rights Act of 1964 and the civil rights laws in the Alaska Statutes, AS 18.80 2 AAC 12.120 (a) (4). Contractor further certifies that subcontracting shall be allocated to meet goals established to eliminate and prevent discrimination.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set out below. This Contract takes effect on the date of its execution by AHFC.

CONTRACTOR: _____ Date: _____
(Authorized signature)

CONTRACTOR: _____
(Typewritten name)

FIRM NAME: _____

ADDRESS: _____

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was executed by _____
and acknowledged before me this _ day of _____, 2019.

Notary Public in and for Alaska
My Commission Expires: _____

Agreed to and Accepted by ALASKA HOUSING FINANCE CORPORATION

By: _____ Date _____
(Authorized signature)

Gregory Rochon, Administrative Services Director
(Typewritten name/title)

STATE OF ALASKA)
)ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was executed by _____ of Alaska Housing
Finance Corporation, on behalf of the Corporation and acknowledged before me this _____ day of
_____, 2019.

Notary Public in and for Alaska
My Commission Expires: _____

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

Certifications and Representations of Offerors

Non-Construction Contract

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

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)

- Black Americans Asian Pacific Americans
 Hispanic Americans Asian Indian Americans
 Native Americans Hasidic Jewish Americans

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban
Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2008)

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes (SEE ARTICLE 11 IN SUPPLEMENT TO GENERAL CONDITIONS FOR NON-CONSTRUCTION)

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom, 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 Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

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

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

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

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

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

22. Procurement of Recovered Materials

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