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Lexington, NC 27293
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**Request for Proposals #18-001
Re-Solicitation
For Fee Accounting Services**

**Avis P. Robinson
Interim Executive Director**

November 8, 2018

Introduction

I. LHA MISSION AND DESCRIPTION

The Lexington Housing Authority (LHA) is a public body corporate established under Chapter 157 of the North Carolina General Statutes. Since 1962, LHA has been committed to providing adequate affordable housing in a suitable living environment to low and moderate income individuals and families without discrimination; and to create economic opportunities for our clients to become self-sufficient. LHA is governed by a five member Board of Commissioners. The Interim Executive Director is Avis P. Robinson.

LHA operates a Section 8 Housing Choice Voucher program throughout Davidson County, administering 268 units of Project Based Section 8 Vouchers in three apartment communities, 369 units of Section 8 Tenant-Based Vouchers, and 20 HOPWA Vouchers. LHA also operates a Family Self Sufficiency (FSS) program with approximately 30 current participants. With the recent completion of a Rental Assistance Demonstration (RAD) conversion, LHA no longer owns or operates any Conventional Public Housing units.

The LHA's fiscal year is July 1st-June 30th. A final draft of the financials must be received no later than the ninth day of each month, with very minimal errors.

Firms must not be included on the HUD Contractor Debarred List.

The selected firm must abide by the LHA's approved Accounting and Internal Controls Policy.

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Attachment B - Instructions to Offerors Non-Construction (HUD-5369-B 8/93)

Attachment C- Certifications and Representations of Offerors Non-Construction Contract (HUD-5369-C 8/93) Supplementary Instructions to Bidders

Attachment D - General Contract Conditions Non-Construction–Section I (HUD-5370-C 10/2006)

Attachment E - Form of Non-Collusive Affidavit

Attachment F - Affidavit of Non-Default

Attachment G - Certification of a Drug-Free Workplace (HUD-50070 3/98)

Instructions to Offerors for Non-Construction Contracts

Public and Indian Housing Programs

1. Offer Preparation and Submission

- (a) Offerors are expected to examine the statement of work and all instructions. Failure to do so will be at the offeror's risk.
- (b) Each offeror shall furnish all the information required by the solicitation. Offerors must submit one original signature proposal and three copies. (Offerors should retain an additional copy for their records). Original proposals must be signed and the offeror's name typed or printed on the proposal and each continuation sheet which required the entry of information by the offeror. Erasures or other changes must be initialed by the person signing the bid. Proposals signed by an agent shall be accompanied by evidence of that agent's authority.
- (c) All proposal documents shall be sealed in an envelope which shall be clearly marked with the words "Fee Accounting Proposal."
- (c) Proposals submitted by facsimile (FAX) machine will not be considered.
- (d) Proposals will not be publicly opened, but shall be kept confidential until contract award.

2. Explanations and Interpretations to Prospective Offerors

- (a) Any prospective offeror desiring an explanation or interpretation of the solicitation or statement of work must request it in writing soon enough to allow the LHA time to provide a reply to all prospective offerors before the submission of their proposals. No oral explanation or interpretation will be provided to any offeror. Any information given a prospective offeror concerning this solicitation will be furnished promptly to all other prospective offerors as a written amendment to the solicitation, if that information is necessary in submitting proposals or if the lack of it would be prejudicial to other prospective offerors. Amendments will also be on file in the offices of the LHA at least seven (7) days before the closing date. All offerors will be bound by such amendments, whether or not they receive the amendments.
- (b) Any information obtained by, or provided to, an offeror other than by formal amendments to the solicitation shall not constitute a change to the solicitation.

3. Responsibility of Prospective Offeror

- (a) The LHA will award contracts only to responsible prospective contractors who can perform successfully under the terms and conditions of the proposed contract in determining the responsibility of an offeror, the LHA will consider such matters as the offeror's:
 - i Integrity;
 - ii Compliance with public policy;
 - iii Record of past performance; and
 - iv Financial and technical resources (including computer and technical equipment).
- (b) Before a proposal is considered for award, the offeror may be requested by the LHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the offeror to provide such additional information shall render the offeror ineligible for award.

4. *Late Submissions and Modifications of Proposals*

- (a) Any proposal received after the exact time specified for receipt will not be considered.
- (b) Any modification of a proposal is subject to the same conditions as in paragraph (a) of this provision.
- (c) The only acceptable evidence to establish the time of receipt at the LHA is the time/date stamp of LHA on the proposal wrapper or other documentary evidence of receipt maintained by the LHA.
- (d) 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; if written confirmation of telegraphic or facsimile withdrawals over the signature of the offeror is mailed and postmarked prior to award.

5. *Service of Protest*

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

“Interested party” means an actual or prospective offeror whose direct economic interest would be affected by the award of the contract.

“Protest” means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

- (b) Protests, as defined in paragraph (a) above, shall be served on the Contracting Officer.
- (c) All protests shall be resolved in accordance with the LHA's protest policy and procedures, copies of which are maintained at the LHA.

6. Contract Award

- (a) The LHA will evaluate proposals and award a contract to the responsible offeror whose proposal will be most advantageous to the LHA, considering price and any other factors specified in the solicitation.
- (b) The LHA may reject all proposals, accept other than the lowest proposal, and waive informalities or minor irregularities in proposals received.
- (c) Unless precluded elsewhere in the solicitation, the HA may accept any item or combination of items proposed.
- (d) A written award shall be furnished to the successful offeror within the period for acceptance specified in the proposal and shall result in a binding contract without further action by either party.

Instructions and Information

- 1. Your proposal must include a cover letter of interest that also describes your firm's approach and philosophy toward such contracts.
- 2. Your proposal must contain sufficient detail that each of the ranking criteria may be evaluated accurately and fairly.

For uniformity in the responses and ease of review and ranking, organize your proposal per the eight ranking criteria. ***Tab or divide each of the eight sections and mark them clearly.***

- 3. The scope of the required fee accounting and financial consulting services shall include, but not be limited to:
 - A. Review and update the books, records, accounts of the Authority in accordance with the procedures outlined by the U.S. Department of Housing and Urban Development (HUD) for Tenant Based and Project Based Section 8 programs.
 - B. Perform all operations necessary to maintain the general ledgers and subsidiary ledgers for the Housing Authority, including the following services:
 - a. Reconcile bank statements on a monthly basis;

- b. Accurately and timely process all monthly journal entries;
 - c. Review trail balances (unaudited) monthly and perform account analysis;
 - d. Analyze Annual Contributions and other significant balances, including operating Subsidy;
 - e. Review bi-weekly payroll transactions, monitor tax deposits and IRS reporting.
 - f. Provide a detailed transaction register (receipts/disbursements) on a monthly basis.
 - g. Review check coding/code checks and release payments for accounts payable;
 - h. Prepare the analysis of General Fund Cash;
 - i. Prepare all monthly and year-end financial statements and annual closing entries;
 - j. Maintain investment and insurance registers;
 - k. Prepare unaudited and audited MD & A submissions;
 - l. Work in conjunction with the Independent Public Accountant (IPA) who performs the Authority's annual audit, and **resolve any audit findings during the audit that relate to financial matters;**
 - m. Maintain subsidiary ledgers for any development funds or grant monies awarded;
 - n. Assist with all HUD compliance and correspondence including conference calls;
 - o. Provide procurement guidance as needed.
4. Review the form of contract, entitled Fee Accounting & Financial Consulting Services Contract, that is included as part of this packet. Familiarize yourself with it thoroughly.
5. Please note that the base term of the proposed contract is for a 12-month period. It is anticipated to begin January 1st, 2019 and end January 31st, 2020. However, there will be four one-year renewal options available, if necessary, not to exceed five years.
6. Your response must also include:
- a. Evidence that you are licensed or registered as a Certified Public Accountant (CPA);
 - b. A completed *Debarment Certification* (included elsewhere in this RFP);

- c. Your preliminary estimates of the amount of time necessary to perform the required services and a proposed monthly schedule; and,
 - d. Your proposed firm, fixed fee schedule for the one-year contract term, as well as the fixed fee schedule should additional four, one-year renewal options be warranted.
7. The Lexington Housing Authority reserves the right to reject any or all proposals received in response to this RFP.
8. This is a qualifications-based proposal process with proposed fees considered.
- a. A three-person ranking team will independently review and rank the proposals. The terms of the contract and the fee(s) will be negotiated with the top-ranked firm. In the event a contract cannot be negotiated with the top-ranked firm, negotiations will be undertaken with the second highest ranked firm, etc.
9. Proposals must be received no later than Thursday, December 6, 2018 at 4:00 p.m. Fax responses will not be accepted. Mail or deliver proposals to:

Avis P. Robinson, Interim Executive Director
Lexington Housing Authority
1 Jamaica Dr. (Physical Address)
P. O. Box 745(Mailing Address)
Lexington, NC 27293

10. Inquiries regarding this Request for Proposals shall be directed to Avis P. Robinson, Interim Executive Director, until Thursday, November 22nd at 2 pm. Responses will be posted no later than Tuesday, November 27th at 4pm.

Desired Qualifications

- 1. Specialized knowledge and an understanding of Federal, State and local housing, housing development and housing modernization programs, including, the Housing Choice Voucher Program (to include the Family Self Sufficiency Program), and the Central Office Cost Center.
- 2. Prior experience as a Fee Account/Financial Consultant to a Public Housing Authority (PHA), performing, at a minimum,
 - a. Preparation of all required HUD financial statements and PHA internal financial reports. Draft PHA financial reports should be submitted no later than 9th day of each month. Final PHA financial reports should be submitted no later than 9th day of each month such that they may be presented to the Audit/Finance Committee and Board of Commissioners.

- b. Preparation (or review and approval) and processing of all monthly journal entries.
 - c. Analysis of Annual Contributions and other significant accounts, such as Debt Service, Operating Subsidy, Payroll, and Modernization Grants.
 - d. Conducting a PHA year-end closing.
 - e. Assistance in the preparation and review of the PFS calculations, and the Public Housing operating budget and Housing Choice Voucher budget(s).
 - f. Preparation of the Financial Data Schedule (FDS) to comply with General Accounting Standards Board (GASB) requirements.
 - g. Preparation and submission of the unaudited/A-133 Financial Assessment to HUD via the Financial Assessment Subsystem by the due date.
- 3. Prior experience as an Independent Professional Accountant (IPA) conducting an annual audit of the books and records of a PHA under the guidelines of the Single Audit Act and HUD Compliance Supplement.
 - 4. The ability to be responsive to the Authority's needs and to perform the services promptly.
 - 5. The availability and adequacy of the human and physical resources necessary to perform all the required services promptly and effectively.
 - 6. Accessibility to the Lexington Housing Authority, Lexington, North Carolina.

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

CONDUCT OF WORK

1. Definitions

- (a) “Contract” means the contract entered between the LHA and the contractor. It includes the *Certifications, Representations, and Other Statements of Offerors*, these *General Conditions* of the Contract, any special conditions included elsewhere in the contract and the specifications and schedule of drawings, if any. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (b) “Contracting Officer” means the person delegated the authority by the LHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The terms include any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the LHA in all dealings with the Contractor.
- (c) “Contractor” means the person or other entity entering into the contract with the LHA to perform all the work required under the contract.
- (d) “HUD” means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an *Annual Contributions Contract* (ACC) to provide financial assistance to the LHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the LHA for payment to the contractor. Notwithstanding HUD’s role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.
- (e) “LHA” means the Lexington Housing Authority organized under applicable North Carolina state law as the Housing Authority of the City of Lexington, and a party to this contract.
- (f) “Work” means materials, workmanship, and manufacture and fabrication of components.

2. Contractor’s Responsibility for Work

- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work.
- (b) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.
- (c) The Contractor shall be responsible for all damages to persons or property that occur because of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the LHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work that may have been accepted under the contract.

3. Inspection and Acceptance

The contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to LHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

LHA inspections and tests are for the sole benefit of the LHA and do not (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the LHA after acceptance of the completed work.

If the contractor fails to perform promptly the required work or to take the necessary action to ensure future performance of the contract in conformity with contract requirements, the LHA may, by contract or otherwise, perform the work itself and charge the contractor any cost incurred that is directly related to the performance of the work or terminate the contract for default.

4. Prohibition Against Liens

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

Administrative Requirements

1. Contract Period

The contractor shall complete all work required under this contract within the time schedule established in the notice to proceed issued by the Contracting Officer.

2. Order of Precedence

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

3. Payments

- (a) The LHA shall pay the Contractor the price as provided in this contract.
- (b) The LHA shall make the final payment due the Contractor under this contract after (1) completion and acceptance of all work; and (2) presentation of release of all claims against the LHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.

4. Contract Modifications

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

5. Changes

- (a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a Change Order, make changes in the work within the general scope of the contract including Changes:
 - (1) In the statement of work;
 - (2) In the method or manner of performance of the work;
 - (3) LHA-furnished facilities, equipment, materials, services, or site; or,
 - (4) Directing the acceleration in the performance of the work.

- (b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a Change shall be treated as a Change Order under this cause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a Change Order.
- (c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer or any other person shall be treated as a Change under this paragraph or entitle the Contractor to an equitable adjustment.
- (d) If any Change under this paragraph causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 30 days before the Contractor gives written notice as required.
- (e) The Contractor must submit any proposal under this paragraph to the Contracting Officer within 30 days after (1) receipt of a written change order under subparagraph (a) above, or (2) the furnishing of a written notice under subparagraph (b) above. The proposal shall include a written statement describing the general nature and the amount of proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under subparagraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) The Contractor's written proposal for equitable adjustment shall be submitted in the following form:
 - (1) Proposals totaling \$5,000 or less shall be submitted in the form of a lump sum proposal with supporting information to clearly relate elements of cost with specific items of work involved to the satisfaction of the Contracting Officer.
 - (2) For proposals, more than \$5,000, the claim for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:
 - (i) ***Direct Costs***
 - Materials;
 - Transportation and delivery costs associated with materials;

Labor breakdowns by hours or unit costs (identified with specific work to be performed);

Worker's Compensation and Public Liability Insurance;

Employment taxes under FICA and FUTA; and

- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt.
- (i) Failure to reach an agreement on any proposal shall be a dispute under clause **30. Disputes** herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.

6. Suspension of Work

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

7. Disputes

- (a) All disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof that are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer. A claim by the LHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (c) The Contracting Officer shall, with reasonable promptness, but in no event in no more than ten (10) days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the Contracting Officer's decision, shall notify the Contracting Officer in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (1) given the notice within the time stated in paragraph (c) above, and (2) excepted its claim relating to such decision from the final release, and (3) brought suit against the LHA 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 LHA that it submit a final voucher and release, whichever is earlier, then the Contracting Officer's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The 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 Contracting Officer.
- (f) The Contractor is prohibited from placing a lien on the LHA's property. This prohibition shall apply to all subcontractors.

8. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. The Contractor and its sureties shall be liable for any damage to the LHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the LHA in completing the work.
- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if-

- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the LHA or other governmental entity in either its sovereign or contractual capacity; and
- (2) The Contractor, within ten (10) days from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision that shall be subject to the provisions of clause **30. Disputes** herein.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for the convenience of the LHA.

9. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the LHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the LHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination which costs shall be paid to the Contractor within 90 days of receipt by the LHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the contractor; (2) the cost of settling and paying claims for work performed, payment for which has not been made by the WHA to the Contractor; (3) the cost of preserving and protecting the work already performed until the LHA or assignee takes possession thereof or assumes responsibility therefore; and (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the LHA.
- (c) Any disputes about this clause are expressly made subject to the provisions of clause **30. Disputes** herein.

10. Assignment of Contract

Contractor may not assign this Contract without first obtaining LHA's prior written consent, which consent shall not be unreasonably, withheld, conditioned or delayed; provided, however, Tenant may, without Landlord's consent, (a) transfer or assign its interest in this Lease by operation of law, merger or otherwise. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by the Contracting Officer.

11. Subcontracting with Small and Minority Firms, and Women's Business Enterprise

The Contractor shall take the following steps to assure that, whenever possible, subcontracts are awarded to minority firms, women's business enterprises, and labor area firms:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and
- (e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and state and local governmental small business agencies.

12. 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 subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor 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.

13. Equal Opportunity for Businesses and Unemployed and Underemployed Persons (HUD Act of 1968, Section 3)

- (a) In accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, the Contractor shall, to the maximum extent practicable:
 - (1) Providing training and employment opportunities to the unemployed and underemployed residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located; and
 - (2) Award contracts for work about the project to business concerns that are in or owned in substantial part by persons residing in the same metropolitan area or non-metropolitan county as the project.
- (b) The Contractor shall insert or cause to be inserted this same provision in each construction subcontract.

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

No member, officer, or employee of the LHA, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the LHA 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. Limitations on Payments Made to Influence Certain Federal Financial Transactions

- (a) The Contractor agrees to comply with Section 1352 of title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement, or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) The contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of

any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

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

16. Rights in Data and Copyrights

Except as provided elsewhere in this clause, the LHA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.

The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.

For data first produced in the performance of this contract, the contractor may establish, without prior approval of the Contracting Officer, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the LHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the LHA.

The contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the LHA a license of the same scope as identified in the preceding paragraph.

The LHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the Contracting Officer may either return the data to the contractor, or cancel or ignore the markings.

The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.

Notwithstanding any provisions to the contrary contained in any contractor's standard commercial license or lease agreement pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such agreement has been proposed prior to the award of this contract or of the fact that such agreement may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees that the LHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing agreement, shall be subject to the following procedures.

The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the LHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any LHA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.

17. Examination and Retention of Contractor's Records

- (a) The LHA, 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 (1) appeals under the clause above titled ***Disputes***, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the LHA, 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.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous because of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The

knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

_____, the prospective participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Explanation Attached? ☐ YES ☐ NO

_____ Firm
Name

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Section 3 Clause

The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirement of Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project, be awarded to business concerns which are in, or owned in substantial part by persons residing in the Section 3 covered project. For the purposes of training and employment, the Section 3 area is the metropolitan area or non-metropolitan county in which the project is located.

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE

I, _____, certify that
_____ is a *Section 3 Business Concern* as defined by
(check one):

- ☐ ☐ The business is 51% or more owned by Section 3 residents; or,
- ☐ ☐ The business' permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or,
- ☐ ☐ The business can provide evidence of a commitment to subcontract more than 25% of the dollar amount of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (a) and (b) above.

_____ is a (check one):

- ☐ ☐ Sole Proprietorship
☐ ☐ Partnership
☐ ☐ Corporation

Evidence in support of our claim as a *Section 3 Business Concern* is attached.

☐ ☐ Yes ☐ ☐ No

Signature

Name Printed/Typed

Date

Name

Firm

Fee Accounting/Financial Consulting Services Evaluation Criteria

ITEM	DESCRIPTION	MAXIMUM VALUE
1	Listed the firm's prior experience providing fee accounting and financial consulting services of the nature required to a PHA	35
2	Demonstrated specialized knowledge and an understanding of Federal, State, and local housing programs and public bodies/authorities	20
3	Fairly-priced and affordable services/fees	15
4	Listed and described the adequacy of the firm's technical and human resources (to include resumes)	15
5	Provided evidence and assurance of the firm's ability to perform responsively and promptly	15
6	Section 3 Bonus	5
Total Possible Score		105

Proposed Form of Contract (not all inclusive)

FEE ACCOUNTING AND FINANCIAL CONSULTING SERVICES CONTRACT

THIS AGREEMENT, made this _____ day of _____, 2018 by and between the Housing Authority of the City of Lexington, a body corporate and politic and existing under and by virtue of the laws of the State of North Carolina hereinafter referred to as the "Authority", and (Accountant) hereinafter called "Accountant".

WHEREAS, the Authority proposes to utilize fee accounting and financial consulting services in conjunction with the operation and administration of its various housing programs;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. Accountant's Scope of Services. The Accountant shall perform the following services in conjunction with the Authority's Conventional Public Housing Program and any other program or administrative area(s) as may be required:

- a. Computer consulting and training (financial modules only) of accounting and other appropriate staff.
- b. Review the preparation of all required HUD financial statements and the Authority's internal financial reports.
- c. Prepare and process all monthly journal entries in concert with the Accounting Manager.
- d. Review trial balances (unaudited) monthly and perform account analysis.
- e. Analyze Annual Contributions and other significant balances (e.g. Debt Service, Operating Subsidy).
- f. Assist in the preparation of Operating Budgets and Budget Revisions, including:

Utility Adjustments
Performance Funding
Budget Procedures

- g. Assist and train the finance staff in handling and recording the following types of transactions (in addition to the areas already mentioned above):

Cash Management

Property & Inventory Control
Insurance Register
Debt Service Accounts
Cash Receipts
Cash Disbursements
Tenant Accounting
Monthly Accounting Procedures

- h. Prepare the analysis of General Fund Cash.
 - i. Work in conjunction with the Independent Public Accountant (IPA) who performs the Authority's annual single audit, and resolve any audit findings during that audit that relate to financial matters.
 - j. Assist and/or train personnel in all phases of HUD accounting and reporting requirements. This will be accomplished by having Authority staff work with the Director of Finance during their visits.
 - k. Perform any other accounting and consulting services requested by the Authority.
2. **Location of Services.** Services will be performed in the Authority's offices, the Accountant's offices and HUD offices, as required.
3. **Disclaimer.** Services will not constitute an audit or review of the financial statements of the Authority; consequently, the Accountant shall not be able to express an opinion or any other form of assurance on the financial statements. An audit examination and these accounting services cannot be relied upon to disclose errors and irregularities or illegal acts. The Accountant's services will not constitute an audit, but rather will be viewed as external accounting services to the Authority. However, the Accountant shall inform the Authority of any matter that comes to their attention which causes them to believe that such conditions referred to above may exist.
4. **Term of Contract.** The base term of the contract shall be the _____ month period beginning _____ and ending _____.
5. **Compensation.** The Authority agrees to pay the Accountant as full compensation for all the services rendered under this contract per the following fee schedule: (Agreed upon fee schedule to be inserted.)
6. **Payment.** Payment shall be made monthly as expenses are incurred and as services are rendered to the Authority. The Accountant's monthly invoice shall include a fully detailed statement, including, at a minimum: dates of service; monthly retainers; number of hours charged at each of the rates listed above in paragraph 3 and a brief description of the service or activity involved at each rate; itemized out-of-pocket expenses.

7. ***Changes.*** The Authority may, from time to time, request changes in the scope of the services of the Accountant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Accountant's compensation, which are mutually agreed upon by and between the Authority and the Accountant, shall be incorporated in written amendments to this contract.
8. ***Notices.*** Any notice, instruction, request, or demand required to be given or Made to the Accountant hereunder shall be deemed to be duly and properly given or made if delivered or mailed, postage prepaid to (Accountant) or to such other representative or address as shall be designated in writing by the Accountant. Any notice, request, information, or document required to be given or delivered hereunder by the Accountant to the Authority or any of its representatives shall be signed or approved in writing by the Accountant and shall be sufficiently given or delivered if mailed, postage prepaid, to

Avis P. Robinson, Interim Executive Director
Lexington Housing Authority
1 Jamaica Dr. (Physical Address)– PO Box 745 (Mailing Address)
Lexington NC 27293

9. ***Release on Final Payment of Compensation.*** Prior to final payment under this contract, or prior to settlement upon termination of the contract, and as a condition precedent thereto, the Accountant shall execute and deliver to the Authority a Certificate of Release in a form acceptable to the Authority, containing a release of all claims against the Authority under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Accountant in stated amounts set forth therein.
10. ***Responsibility of Accountant.*** The Accountant shall apply reasonable and proper skills, judgment, and care which are customary and normal to professional legal practice, and shall be liable to the Authority for damages or losses resulting from failure to apply the above reasonable and proper skills, judgment and care.
11. ***Covenant Against Contingent Fees.*** The Accountant warrants that he/she has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage, or contingent fee.
12. ***Discrimination Because of Certain Labor Matters.*** No person employed on the work covered by this contract shall be discharged or in any way discriminated against because he has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his employer.
13. ***Personnel.***

- a. The Accountant represents that he has, or will secure at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the Authority.
- b. All the services required hereunder will be performed by the Accountant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

14. *Anti-Kickback Rules.* The Accountant shall comply with all regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; title 18 U.S.C., Section 874; and title 40 U.S.C., Section 276c).

15. *Interest of Accountant.* The Accountant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the Authority's Project Areas or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Accountant further covenants that in the performance of the contract no person having such interest shall be employed.

16. *Findings Confidential.* All the reports, information, data, etc., prepared or assembled by the Accountant under this contract are confidential and the Accountant agrees that they shall not be made available to any individual or organization without the prior written approval of the Authority.

17. *Contract Documents.* The contract shall consist of the following parts:

- a. Request for Proposal
- b. Accountant's Proposal(s) dated October 29, 2018
- c. LHA's Accounting and Internal Controls Policy
- d. Instructions to Offerors Non-Construction (HUD-5369-B) (8/93)
- e. Certifications and Representations of Offerors Non-Construction Contract (HUD-5369-C) 8/93) Supplementary Instructions to Bidders
- f. General Contract Conditions Non-Construction-Section I (HUD-5370-C) (10/2006)
- g. Form of Bid
- h. Form of Non-Collusive Affidavit
- i. Affidavit of Non-Default
- j. Certification of a Drug-Free Workplace (HUD-50070)

IN WITNESS, WHEREOF, the Authority and the Accountant have executed this agreement, the day and year first written above.

Lexington Housing Authority, (Firm Name),
a North Carolina public body and body corporate and (Entity Type)
politic

By: _____
(Signature)

By: _____
(Signature)

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A

FORM OF PROPOSAL

(This Form must be fully completed and placed under Tab #1 of the proposal submittal)

Instructions: The items listed below must be completed and included in the Proposal unless otherwise specifically noted. Please complete this form by marking X, where the referenced information has been included.

X=ITEM INCLUDED		SUBMITTAL ITEMS (One original and four hard copies of each Proposal)
_____	Tab 1	Form of Proposal
_____	Tab 2	Form HUD-5369-C
_____	Tab 3	Profile of Firm Form
_____	Tab 4	Proposed Services
_____	Tab 5	Managerial Capacity/Financial Viability
_____	Tab 6	Client Information
_____	Tab 7	Equal Employment Opportunity/Supplier Diversity
_____	Tab 8	Subcontractor/Joint Venture Information (Optional)
_____	Tab 9	Section 3 Documentation (Optional)
_____	Tab 10	Other Information (Optional)

PROPOSER'S STATEMENT

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if the LHA discovers that any information entered herein is false, that shall entitle the LHA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the LHA. Pursuant to all RFP Documents, the Form of Proposal, and all attachments, the undersigned proposes to supply the LHA with the services described herein for the fees as agreed by the LHA and proposer.

Signature

Date

Printed Name

Company and Address

Certifications and Representations of Offerors

Non-Construction Contract

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

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

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

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

1. Contingent Fee Representation and Agreement

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

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

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

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

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

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

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

(a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

(1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

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

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

Certifications and Representations of Offerors

Non-Construction Contract

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

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

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

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

1. Contingent Fee Representation and Agreement

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

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

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

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

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

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

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

(a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

(1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

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

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

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. 01/31/2014)

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

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

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

proposal submitted before final payment of the contract.

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

NON-COLLUSIVE AFFIDAVIT

By submission of this bid or proposal, the bidder certifies that:

- a) This bid or proposal has been independently arrived at without collusion with any other bidder or with any competitor or potential competitor;
- b) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids or proposals for this project, to any other bidder, competitor, or potential competitor;
- c) No attempt has been or will be made to induce any other person, partnership, or corporation to submit or not to submit a bid or proposal or to fix overhead, profit, or cost element of said bid price, or that of any other or to secure any advantage against the Housing Authority;
- d) The person, signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing in its behalf;
- e) That attached hereto (if a corporate bidder) is a certified copy of the resolution authorizing the execution of this certificate by the signator of this bid or proposal in behalf of the corporate bidder.

_____, deposes and says that he is _____

the party making the foregoing proposal or bid for _____(Project description), that such proposal or bid is genuine and not collusive and that all stats herein are true.

Signature:

Bidder (if the bidder is an Individual

Partner (if the bidder is a Partnership)

Officer (if the bidders is a Corporation)

Subscribed and sworn to before me this _____ day of _____, _____.

My commission expires: _____.

Notary Public

(Seal)

NON DEFAULT AFFIDAVIT

AFFIDAVIT (Prime Proposer)

STATE OF: _____:

COUNTY OF: _____:

_____, being duly sworn according to law, deposes and says:

1. That he/she is _____ (a partner/officer of the firm of _____), the party making the foregoing Proposal or Proposals.

2. He/she further certifies as follows:

a) that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith;

b) that for the period beginning 10 years prior to the date of this certification, and except as shown on the attachment, I have not experienced defaults or noncompliance under any contract for the U. S. Department of Housing and Urban Development, or any other governmental agency with which I have contracts;

c) to the best of my knowledge there are no unresolved findings raised as a result of HUD audits, management reviews or any other governmental investigations concerning me or work under any of my contracts;

d) there has not been a suspension or termination of payments under any HUD contract in which I have had a legal or beneficial interest attributable to my fault or negligence;

e) I have not been convicted of a felony and am not presently, to my knowledge, the subject of a complaint or indictment charging a felony. (A felony is any offense punishable by imprisonment for more than one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by imprisonment of two years or less.);

Certification for a Drug-Free Workplace

U.S. Department of Housing
and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date

X