

**INVITATION FOR BID
FOR**

MRO Products and Replenishment and
Inventory Services

**STARK METROPOLITAN
HOUSING AUTHORITY**

IFB # 07032020-O

Prepared by:

Procurement & Contracting Department

The Stark Metropolitan Housing Authority

400 East Tuscarawas Street

Canton, Ohio 44702

TABLE OF CONTENTS

| | |
|---|----|
| Introduction | 3 |
| IFB Information at a Glance | 4 |
| General Information | 5 |
| SMHA's Reservation of Rights | 5 |
| General Conditions | 7 |
| Conditions to Bid | 7 |
| Bid Format | 9 |
| Bid Opening | 10 |
| Insurance | 11 |
| Right to Protest | 12 |
| Disputes Under the Contract | 12 |
| Additional Considerations | 13 |
| Attachments | |
| Attachment A: Scope of Work/Technical Specifications | 18 |
| Attachment B: Form of Bid | 20 |
| Attachment C: Bid Fee Sheet | 21 |
| Attachment D: Bidder's Certification Form | 23 |
| Attachment E: List of Past Performance/Experience/Client Information Form | 24 |
| Attachment F: Vendor Registration Forms | 26 |
| Attachment G: HUD Forms | 28 |

INTRODUCTION

The Agency

Stark Metropolitan Housing Authority (SMHA), a political subdivision of the State of Ohio is governed by the Ohio Revised Code and the U.S. Department of Housing and Urban Development (HUD). SMHA is a public entity that was formed to provide federally subsidized housing and housing assistance to low-income families. SMHA is headed by an Executive Director and is governed by a five-person Board of Commissioners. SMHA has 2,546 public housing rental units and 15 additional non-public housing units consisting of family sites, high rises, and scattered sites located throughout Stark County.

As a part of our social mission and federal mandate, SMHA is committed to providing eligible residents of Stark County with quality, affordable housing in decent, safe and nourishing neighborhoods. By working in partnership with the public and private sectors SMHA provides families with housing choices and opportunities.

The Invitation for Bids (IFB)

The Stark Metropolitan Housing Authority and its affiliated entities are seeking sealed bids from qualified service providers with demonstrated competence and experience to provide material required to meet specified requirements.

Estimated budget for this project is \$200,000-3000

The Invitation for Bids can be obtained online at www.starkmha.org; or by contacting the SMHA Purchasing Department at purchasing@starkmha.org.

This Invitation for Bids contains submission requirements, period of services, terms and conditions and other pertinent information for submitting a proper and responsive bid. **Prospective Bidders desiring any explanation or interpretation of the solicitation must request it, in writing, by the deadline identified in this IFB (see p. 4 IFB INFORMATION AT A GLANCE).** The request must be addressed to the Purchasing Department, and sent either via email to purchasing@starkmha.org or by mail. Any information given to a prospective Bidder about this solicitation will be furnished to all other prospective Bidders as a written amendment to the solicitation.

All responses to the IFB must be enclosed in a sealed envelope and labeled as follows:

**Stark Metropolitan Housing Authority
Attn: Purchasing Department 400
East Tuscarawas Street
Canton, Ohio 44702**

IFB# 07032020-O

Due Date and Time: August 5, 2020 12:00 PM

Late submissions will not be accepted. Submissions received prior to the opening will be held in confidence until the opening. After evaluation of the responses, the Contract will be awarded to the most responsible/responsive Bidder(s) representing the "Best Value" to SMHA. The resulting Contract may be funded through Section 3 covered assistance and as such will be subject to Section 3, 24 CFR Part 135. SMHA and its affiliated entities reserve the right to reject any and all submissions.

Notice: Contact with members of SMHA Board of Commissioners, or SMHA officers and employees other than the contact person shown above, by any prospective Bidder, after publication of the IFB and prior to the execution of a contract with the successful Bidder(s) could result in disqualification of your bid. In fairness to all prospective Bidder(s) during the IFB process, if SMHA meets in person with anyone representing a potential provider of these services to discuss this IFB other than at the pre-submittal meeting, an addendum will be issued to address all questions so as to ensure no Bidder has a competitive advantage over another. This does not exclude meetings red to conduct business not related to the IFB, or possible personal presentations after written qualifications have been received and evaluated.

IFB INFORMATION AT A GLANCE

| | |
|--|---|
| SMHA CONTACT PERSON | Purchasing Agent purchasing@starkmha.org |
| HOW TO OBTAIN THE IFB DOCUMENTS | <ol style="list-style-type: none"> 1. Access: www.starkmha.org 2. Email Request to: Purchasing Department purchasing@starkmha.org 3. In Person at: 400 E. Tuscarawas St. Canton, OH 44702 |
| HOW TO FULLY RESPOND TO THIS IFB | Submit 1 unbound original (“hard copy”) and 1 electronic copy (CD) of your bid to SMHA Purchasing Department in the format as described under Section 5.0, Bid Format. Use the submittal checklist (Form of Bid- Attachment B) on page 28. |
| DATE ISSUED | July 13, 2020 |
| Pre-Bid Meeting | July 22, 2020 |
| Q&A DEADLINE | July 29, 2020 12:00 PM |
| BID SUBMITTAL RETURN & DEADLINE | <u>August 5, 2020 12:00 PM</u> SMHA Purchasing Department 400 E. Tuscarawas St. Canton, OH 44702 |
| ANTICIPATED AWARD DATE | August 12, 2020 |

INVITATION FOR BIDS

1.1 **GENERAL INFORMATION:**

- 1.2 **Statement of Purpose:** The Stark Metropolitan Housing Authority and its affiliated entities (SMHA) are seeking sealed bids from qualified, licensed Vendors with demonstrated competence and experience to provide all materials as detailed in **Attachment A**.
- 1.3 Prospective Bidders acknowledge by downloading and receiving the IFB documents and/or by submitting a bid to SMHA is not a right by which to be awarded a contract, but merely is an offer by the prospective Bidder to provide the supplies of the IFB documents in the event SMHA decides to consider to award a contract to that Bidder.
- 1.4 **Bidder's Responsibilities- Contact with SMHA:** It is the responsibility of the Bidder to address all communication and correspondences pertaining to this IFB process to SMHA contact person listed herein only. Bidders must not make inquiry or communicate with any other SMHA staff member or official (including members of the Board of Commissioners) pertaining to this IFB. Failure to abide by this requirement may be cause for SMHA to not consider a bid submittal received from any Bidder who has not followed this directive during the IFB solicitation process. The SMHA will not conduct any ex parte conversations which may give one perspective Bidder and advantage over other prospective Bidders.
- 1.5 **Type of Contract resulting from this IFB:** Firm Fixed-Price Contract. SMHA will consider price Increases in comparison to inflation rates. The contract period shall be for 3 years with 1 2 year renewal.

2.1 **SMHA'S RESERVATION OF RIGHTS:**

- 2.2 SMHA reserves the right to reject any or all bids, to waive any informality in the IFB process, or to terminate the IFB process at any time, if deemed by SMHA to be in its best interest.
- 2.3 SMHA reserves the right not to award a contract pursuant to this IFB.
- 2.4 SMHA reserves the right to terminate a contract awarded pursuant to this IFB, at any time for its convenience upon 14 days written notice to the successful Bidder(s).
- 2.5 SMHA reserves the right to determine the days, hours and locations that the successful Bidder(s) shall provide the services called for in this IFB.
- 2.6 SMHA reserve the right to retain all bids submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving bids without written consent from SMHA.
- 2.7 SMHA reserves the right to reject and not consider any bid that does not meet the requirements of this IFB, including but not necessarily limited to incomplete bids and/or bids that offering alternate or non-requested services.
- 2.8 SMHA shall have no obligation to compensate any Bidder for any costs incurred in responding to this IFB.
- 2.9 SMHA reserves the right to, at any time during the IFB or contract process, prohibit any further participation by a Bidder or reject any bid submitted that does not conform to any of the

requirements detailed herein. Each prospective Bidder further agrees that he/she will inform SMHA in writing within five (5) days of the discovery of any item that is issued thereafter by SMHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve SMHA, but not prospective Bidders, of any responsibility pertaining to such issue.

- 2.10** SMHA reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the IFB documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on SMHA's website (www.starkmha.org) and such changes that are issued before the bid submission deadline shall be binding upon all prospective Bidders.
- 2.11** In the case of rejection of all bids, SMHA reserves the right to advertise for new bids or to proceed to do the work otherwise, if in the judgement of SMHA, the best interest of SMHA will be promoted.
- 2.12** SMHA reserves the right to, without liability; cancel the award of any bid(s) at any time before execution of the contract documents by all parties.
- 2.13** SMHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to SMHA, if:
 - 2.13.1** Funding is not available
 - 2.13.2** Legal restrictions are placed upon the expenditure of monies for this category of services or supplies; or
 - 2.13.3** SMHA's requirements in good faith change after award of the contract, documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on SMHA's website (www.starkmha.org) and such changes that are issued before the bid submission deadline shall be binding upon all prospective Bidders.
- 2.14** SMHA reserves the right to make an award to more than one bidder, if in the judgement of SMHA, the best interest of SMHA will be promoted.
- 2.15** SMHA reserves the right to require additional information from all bidders to determine level of responsibility. Such information shall be submitted in the form required by SMHA within two (2) days or written request.
- 2.16** SMHA reserves the right to amend the contract any time prior to contract execution.
- 2.17** SMHA reserves the right to contact any individuals, entities, or organizations that have had business relationships with the proposer regardless of their inclusion in the reference section of the proposal submitted.
- 2.18** In the event any resulting contract is prematurely terminated due to non-performance and/or withdrawal by the Vendor, SMHA reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the Vendor to cover costs for interim service and/or cover the difference of a higher cost (difference between terminated Vendor's rate and the new company's rate) beginning the date of Vendor's termination through the contract expiration date.
- 2.19** SMHA reserves the right to award all, part, or none of the materials and/or services specified in this IFB as determined to be in the best interest of SMHA.

3.1 GENERAL CONDITIONS:

- 3.2** The Vendor(s) shall provide materials per the enclosed specifications/statement of work (**see Attachment A**).
- 3.3 Regulatory:** Vendor(s) shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services under this IFB. This would include any Americans with Disabilities Act (ADA) and Uniform Federal Accessibility Standard (UFAS) standards.
- 3.4 Bid Prices:** Bidders are advised that the Fees shall be all inclusive and fully burdened to accomplish the work as specified in this IFB and any resulting contract.
- 3.5 Vendor(s) shall provide at Vendor's own expense all equipment, labor, materials, supplies, and tools to perform all the services required under this IFB and any resulting contract.**
- 3.6** Vendor(s) shall provide uniforms and ID badges for all employees working on SMHA's properties. No employee will be allowed on SMHA's properties out of uniform and without an ID badge.

4.1 CONDITIONS TO BID:

- 4.2 Pre-Qualification of Bidders:** Prospective Bidders will not be required to pre-qualify in order to submit a bid. However, all Bidders will be required to submit adequate information showing the Bidder is qualified to perform the required work (i.e. Vendor Registration Form [**Attachment M**]). Failure by the prospective Bidder to provide the requested information may, at SMHA's discretion, eliminate that Bidder from consideration, provided that all Bidders were required to submit the same information.
- 4.3 IFB Forms, Documents, Specifications, and Drawings**
- 4.3.1** Prior to submitting a bid in response to this IFB, it shall be each prospective Bidder's responsibility to examine carefully and, as may be required, properly completed all documents issued pursuant to this IFB.
- 4.3.2** Catalogs, brand names or manufacturer's references are provided for descriptive purposes only and indicates the type and quality desired. Bids on brands of like nature and quality will be considered unless specified otherwise. If bidding other than references, bid submittal shall show manufacturer, brand or trade name, and other

description of product offered. If other than brand(s) specified is offered, illustrations and complete description of products offered must be included in the bid submittal. Failure to take exception to specifications will require Vendor(s) to furnish specified brand names, numbers, etc.

4.4 Submission and Receipts by SMHA:

4.4.1 Time for Receiving Bids: Bids received prior to the bid submittal deadline shall be securely kept, unopened, by SMHA. The Purchasing Agent whose duty it is to open such bids, will decide when the specified time has arrived. No bid received after the designated deadline shall be considered.

4.4.1.1 Bidders are cautioned that any bid submittal that is time stamped as being received by SMHA after the exact time set as the deadline for receiving of bids shall not be considered. Any such bids inadvertently opened shall be ruled to be invalid. No responsibility will attach to SMHA or any official or employee thereof, for the pre-opening of, or failure to open a bid not properly addressed and identified.

4.4.1.2 A total of one (1) original unbound signature copy ("hard copy") **and** one (1) electronic (CD) copy **shall** be placed unfolded in a sealed package with the Bidder's name and return address and addressed as follows:

**Stark Metropolitan Housing Authority
Attn: Purchasing Department 400
East Tuscarawas Street
Canton, Ohio 44702**

IFB# 07032020-O

Due Date and Time: August 5, 2020 12:00 PM

4.4.2 Withdrawal of Bids: Bids may be withdrawn as detailed within Form HUD-5369, *Late Submissions, Modifications and Withdrawal of Bids*. Negligence on the part of the Bidder preparing his/her bid confers no right of withdrawal or modification of his./her bid after such bid has been received and opened.

4.4.2.1 Procedure to withdraw Bid submittal: A request for withdrawal of a bid due to a purported error need not be considered by SMHA unless filed in writing by the Bidder within 48 hours after the bid deadline. Any such request shall contain a full explanation of purported error and shall, if requested by SMA, be supported by the original calculations on which the bid was computed, a certification and notarization thereon that such computation is the original and was prepared by the Bidder or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as SMHA retains the right to accept or reject any proposed withdrawal for a mistake.

4.5 Exceptions to Specifications:

4.5.1 A prospective Bidder may take exception to any of the bid documents or any part of the information contained therein, by submitting, in writing to SMHA, at least seven (7) days prior to the bid submission deadline, a complete and specific explanation as to what he/she is taking exception. Proposed alternate documents or information must be

included. SMHA reserves the right to agree with prospective Bidder and issue a revision to the applicable requirements, or may reject the prospective Bidder's request.

4.5.2 When taking exception, prospective Bidders must propose services that meet the requirements of the IFB documents. Exceptions to the specifications and/or approved "equal" requests may be discussed at the scheduled pre-bid conference (if scheduled). All verbal instructions issued by SMHA officers not already listed within the IFB documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.

5.1 BID FORMAT:

5.2 THE BID (TAB 1 TO TAB 13) SHALL BE SUBMITTED IN ONE (1) SEALED ENVELOPE. SUBMIT ONE (1) UNBOUND ORIGINAL ("HARD COPY") AND ONE (1) ELECTRONIC COPY (CD) OF YOUR BID. Bid sealed envelopes must be addressed as detailed in 4.3.1.2 and include the Bidder's Company name in the upper left corner. Failure to submit the bid in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that bid, and may, at the discretion of SMHA, eliminate that Bidder from consideration or award.

5.3 Required Forms: All required forms furnished by SMHA as a part of this IFB shall, as instructed, be fully completed and submitted by the Bidder. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the Bidder must "edit" the form back to its original form (for example, signature lines must appear on the page which the line was originally intended).

5.4 Tabbed Bid Submittal: SMHA intends to retain the successful Bidder pursuant to a "Best Value" basis, not a "Low Bid" basis. Therefore, so that SMHA can properly evaluate the bids received, all bids submitted in response to this IFB shall be formatted in accordance with the sequence noted below (Tab 1 to Tab 7). **Do not omit any tabs, if the information requested does not apply please put "Not Applicable" under the accompanying tab in the submittal. FAILURE TO SUBMIT ALL REQUIRED INFORMATION MAY RESULT IN DISQUALIFICATION OF THE BID SUBMITTAL FROM CONSIDERATION FOR AWARD.**

Each category shall be separated by numbered index dividers and the number on the index divider must extend so that each tab can be located without opening the bid and labeled with the corresponding tab reference noted below. None of the proposed services may conflict with a requirement SMHA has published herein or has issued by addendum.

5.4.1 TAB 1 FORM OF BID: This Form is attached hereto as **Attachment B** to this IFB document. This one-page Form shall be fully completed, executed where provided, and submitted under this tab as part of the bid submittal.

5.4.2 TAB 2 BID FEE SHEET: This Form is attached hereto as **Attachment C** to this IFB document. This Form shall be fully completed, including acknowledgement of addendum/HUD Forms/Section 3 Preference, and submitted under this tab as a part of the bid submittal.

5.4.3 TAB 3 BIDDER'S CERTIFICATION FORM: This Form is attached hereto as **Attachment E** to this IFB document and must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.

- 5.4.4 TAB 4 LIST OF PAST PERFORMANCE/EXPERIENCE/CLIENT INFORMATION:** This Form is attached hereto as **Attachment J** to this IFB document and must be fully completed, executed where provided thereon, if applicable, and submitted under this tab as a part of the bid submittal. The Bidder must submit under this tab a concise description of past performance, experience and client information in performing similar contract work substantially similar to that required by this solicitation. The Bidders shall submit three (3) former or current clients, preferably other than SMHA, for whom the Bidder has performed similar or like services to those being proposed herein.
- 5.4.5 TAB 5 COPY OF INSURANCE CERTIFICATE:** The Bidder shall submit a copy of their insurance certificate. If a Bidder receives an award and unless otherwise waived in the IFB documents, Vendor will be required to provide an original Certificate of Insurance confirming the minimum requirements of SMHA within 10 days of contract signature. The Insurance Certificate shall name SMHA as an additional insured.
- 5.4.6 TAB 6 COPY OF WORKMAN'S COMPENSATION CERTIFICATE:** The Bidder shall submit a copy of their Workman's Compensation Certificate.
- 5.4.7 TAB 7 VENDOR REGISTRATION FORMS & W-9:** The Vendor Registration Forms are attached hereto as **Attachment M** to this IFB document. This Form must be fully completed, executed where provided, and submitted under this tab as a part of the bid

6.1 BID OPENING:

- 6.2** It is understood by all Bidders/prospective Bidders that the bids are publically opened and the results will be a matter of public record.
- 6.2.1** All bid documents submitted by the Bidders are generally a matter of public record unless information is deemed to be proprietary.
- 6.2 Mistake in the Bid Submitted:** Unless otherwise prohibited within the IFB documents, a mistake in the unit cost pricing that does not affect the total cost sum submitted, may, at SMHA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to SMHA, for his/her review. This mistake must be corrected before the issuance of any contract documents. Such correction shall not operate to give any Bidder an advantage over another.
- 6.3 Irregular Bid Submittal:** A bid shall be considered irregular for any one of the following reasons, any one or more of which may, at SMHA's discretion, be a reason for rejection:
- 6.3.1** If the forms furnished by SMHA are not used or are altered or if the proposed costs are not submitted as required and where provided.
- 6.3.2** If all requested completed attachments do not accompany the bid submittal.
- 6.3.3** If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning or give the Bidder a competitive advantage over other Bidders.
- 6.3.4** If the Bidder adds any provisions reserving the right to accept or reject any award or to enter into contract pursuant to an award.

6.3.5 If the individual cost bid items submitted by a specific Bidder are unbalanced in the sense that the listed price of any cost item departs by more than 25% from SMHA's cost estimate for that item.

6.4 Disqualification of Bidders: Any one or more of the following shall be considered as sufficient for disqualification of a prospective Bidder and the rejection of his/her bid:

6.4.1 Evidence of collusion among prospective Bidders. Participants in such collusion will receive no recognition as Bidders or Bidders for any future work with SMHA until such participant shall have been reinstated as a qualified Bidder or Bidders. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.

6.4.2 More than one bid for the same work from an individual, firm, or corporation under the same or different name(s).

6.4.3 Lack of competency, lack of experience and/or lack of adequate machinery, plan and/or other resources.

6.4.4 Unsatisfactory performance record as shown by the past work for SMHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.

6.4.5 Any reason to be determined in good faith, to be in the best interest of SMHA.

6.5 Award of Bid(s): The successful Bidder(s) shall be determined by the top-rated responsive and responsible Bidder as determined by "Best Value", provided his/her bid is reasonable and within budget, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of SMHA, in the best interest of SMHA to accept the bid. SMHA reserves the right to award to multiple suppliers if it is determined to be in the best interest of SMHA.

7.1 INSURANCE:

7.2 If a Bidder receives an award, the Vendor will be required to provide an original Certificate of Insurance confirming the following minimum requirements to SMHA within 10 days of contract signature:

| | |
|--|---|
| Professional Liability | Required Limits |
| SMHA and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to SMHA such as appraisers, inspectors, attorneys, engineers or consultants. | \$ 1,000,000.00 |
| Business Automobile Liability | Required Limits |
| SMHA and its affiliates must be named as an additional insured and as the certificate holder. This is required for any vendor that will be using their vehicle to do work on SMHA properties. | \$500,000.00 combined Single limit, per occurrence |
| Workers' Compensation and Employer's Liability | Required Limits |
| Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000. Workers' Compensation is required for any vendor made up of more than one person. A Waiver of Subrogation in favor of SAHD must be included in the Workers' Compensation policy. SMHA and its affiliates must be a Certificate Holder. | Statutory \$500,000.00 |
| Commercial General Liability | Required Limits |

This is required for any vendor who will be doing hands on work at SMHA properties.
SMHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.

\$1,000,000.00 per
accident
\$2,000,000
aggregate

8.1 **RIGHT TO PROTEST:**

- 8.2 Rights:** Any prospective or actual Bidder, offeror, or vendor who is allegedly aggrieved in connection with the solicitation of a bid or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures.
- 8.2.1 Definition:** An alleged aggrieved “protestant” is a prospective Bidder or Bidders who feels that he/she has been treated inequitably by SMHA and wishes SMHA to correct the alleged inequitable condition or situation.
- 8.2.2 Eligibility:** To be eligible to file a protest with SMHA pertaining to an IFB or contract, the alleged aggrieved protestant must have been involved in the IFB process in some manner as a prospective Bidder (i.e. recipient of the IFB documents) when the alleged situation occurred. SMHA has no obligation to consider a protest filed by a party that does not meet these criteria.
- 8.2.3 Procedure:** Any actual or prospective Bidder may protest the solicitation or award of a contract for material violation of SMHA’s Procurement Policy. Any protest against a SMHA solicitation must be received before the due date for receipt of bids and any protest against the award of a contract must be received within ten calendar days after contract award or the protest will not be considered.

All protests must be in writing and submitted to the Director of Development for a written decision. The Director of Development shall issue a written decision and findings to the Vendor within thirty (30) days from the receipt of the written protest. This decision is then appealable to the Board of Commissioners within thirty (30) days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the example below:

APPEAL OF IFB NO. 07023030-O
Stark Metropolitan Housing Authority
Attn: Director of Development
400 East Tuscarawas Street
Canton, Ohio 44702

9.1 **DISPUTES UNDER THE CONTRACT:**

- 9.2 Procedures:** In the event that any matter, claim, or dispute arises between the parties, whether or not related to this IFB or any resulting contract, both parties shall be subject to non-binding mediation if agreed to by both parties within thirty (30) days of either party making a request in writing. The parties further agree that if the matter, claim or dispute is not settled during mediation, it shall thereafter be submitted to binding arbitration. The parties shall make a good-faith attempt to mutually agree upon an arbitrator. If the parties cannot mutually agree upon an arbitrator after reasonable efforts have been exerted, then the matter, claim or dispute shall be submitted to the American Arbitration Association for final and binding arbitration. Unless

extended by the arbitrator for good cause shown, the final arbitration hearing shall begin no later than two months after the selection of the arbitrator.

10.1 ADDITIONAL CONSIDERATIONS:

- 10.2 Taxes:** SMHA, a governmental entity, is exempt from Ohio State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 10.3 Governmental Standards:** It is the responsibility of the prospective Bidder to ensure that all items and services proposed conform to all Local, State and Federal laws concerning safety (OSHA) and environmental control (EPA and Stark County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful Bidder(s) shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful Bidder(s) for time or monies lost due to violations of any such ordinance, code, law or regulation that may occur.
- 10.4 Delivery:** All costs submitted by the successful Bidder(s) shall reflect the cost of delivering the proposed items and/or services to the locations specified within the IFB documents or within the Agreement. All costs in the bid submittal shall be quoted as Free on Board (FOB) Destination, Freight Prepaid and allowed unless otherwise stated in this IFB.
- 10.4.1** The successful Bidder(s) agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful Bidder. Upon default, the successful Bidder(s) agrees that SMHA may, at its option, rescind the finalized contract under the termination clause herein and seek liquidated damages as provided by law.
- 10.5 Work on SMHA Property:** If the successful Bidder's work under the contract involves operations on SMHA premises, the successful Bidder(s) shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and shall immediately return said property to a condition equal to or better than the existing condition prior to the commencement of work at the site at no cost to SMHA.
- 10.6 Estimate Quantities:** Unless otherwise indicated, the quantities shown are estimates only and are used to evaluate the responses and may or may not reflect anticipated purchases. SMHA does not guarantee any minimum purchase quantity.
- 10.7 Official, Agent and Employees of SMHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of SMHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 10.8 Independent Vendor:** Unless otherwise stated within the IFB documents or in the contract, the successful Bidder(s) is an independent vendor. Nothing herein shall create any

association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.

- 10.9 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 10.10 Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such terms or conditions for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 10.11 Limitation of Liability:** In no event shall SMHA be liable to the successful Bidder(s) for an indirect, incidental, consequential or exemplary damages.
- 10.12 Indemnity:** The Vendor shall indemnify and hold harmless SMHA and its officers, agents, representatives and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for or on account of any bodily injury or death of an employee of the Vendor(s), its agents or its subvendors of any tier received or sustained by any persons or property growing out of, occurring or attributable to any work performed under or related to this agreement, resulting in whole or in part from the negligent acts or omissions of the Vendor(s), an subvendors, or an employee, agent or representative of the Vendor(s) or any subvendors, **AND REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF SMHA. VENDOR(S) ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS OF THIS AGREEMENT, SURVIVES TERMINATION OF THIS AGREEMENT AND APPLIES TO CLAIMS AND LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF SMHA.**

Vendor(s) shall indemnify and hold harmless SMHA, their agents, consultants and employees from and against any and all property damage claims, losses, damages, costs and expenses relating to the performance of this Agreement, including any resulting loss of use, *but only to the extent caused by the negligent acts or omissions of Vendor(s)*, its employees, subvendors, suppliers, manufacturers or other persons or entities for whose acts Vendor(s) may be liable.

- 10.13 Public/Contracting Statutes:** SMHA is a governmental entity as that term is defined in the procurement statutes. SMHA and this IFB and all resulting contracts are subject to Federal, State and Local laws, rules, regulations and policies relating to procurement.
- 10.14 Termination:** Any contract resulting from this IFB may be terminated under the following conditions:
- 10.14.1** By mutual consent if both parties, and
 - 10.14.2 Termination for Cause:** As detailed within the attached/referenced HUD Forms.
 - 10.14.2.1** SMHA may terminate any and all contracts for default at any time in whole or in part, if the Vendor(s) fails to perform any of the provisions of any contract, fails to pursue the work as to endanger performance in accordance with the terms of the IFB or any

resulting contracts, and after receipt of written notice from SMHA, fails to correct such failures within seven (7) days or such other period as SMHA may authorize or require.

- 10.14.2.1.1** Upon receipt of a notice of termination issued from SMHA, the Vendor(s) shall immediately cease all activities under any contract resulting from this IFB unless expressly directed otherwise by SMHA in the Notice of Termination.
- 10.14.2.1.2** SMHA may terminate any contract resulting from this IFB in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.
- 10.14.3** **Termination for Convenience:** SMHA may terminate for convenience on a unilateral basis when the product or services is no longer needed or when it is in the best interest of SMHA.
- 10.14.4** The rights and remedies of SMHA provided under this section are not exclusive and are in addition to any other rights and remedies provided by law or under any contract.
- 10.14.5** In the event the resulting contract from this IFB is terminated for any reason, or upon its expiration, SMHA shall retain ownership of all work products including deliverables, source and object code, microcode, software licenses, and documentation in whatever form that may exist. In addition to any other provision, the Vendor(s) shall transfer title and deliver to SMH any partially completed work products, deliverables, sourced and object code, or document that the Vendor(s) has produced or acquired in the performance of any resulting contract.
- 10.19 Examination and Retention of Vendor's Records:** SMHA, HUD, Comptroller General of the United States, or any of their duly authorized representatives shall, until three (3) years after final payment under all contracts executed as a result of this IFB, have access to and the right to examine any of the Vendor's directly pertinent books, documents, papers or other records involving transactions related to this contract for the purpose of making audits, examinations, excerpts or transcriptions.
- 10.20 Invoicing (if applicable):** Vendor(s) will only be allowed to invoice for the cost of goods in compliance with his/her bid.

 - 10.20.1** Invoices must contain a complete description of the item, performed, the contract price for the item, the purchase order number, contract number (if applicable), and date of delivery and address of delivery location.
 - 10.20.2** Vendor(s) must submit a separate invoice for each purchase order issued by SMHA unless prior approval is obtained from SMHA. **Vendor(s) must submit invoice within thirty (30) days after delivery of goods and/or services. If Vendor(s) fails to invoice within thirty (30) days after delivery of goods and/or services, SMHA reserves the right to not pay the invoice.**

- 10.20.3** If offered by Vendor(s), SMHA seeks a discount for early payment. SMHA shall only take such a discount if earned.
- 10.20.4** **Payments made under the awarded contract will be made electronically by ACH, and will require additional documents to be set up for the ACH payments.**
- 10.20.6** Invoices/requests for payments shall be sent to the following address:
- Stark Metropolitan Housing Authority
Attn: Finance
400 East Tuscarawas Street
Canton, Ohio 44702**

10.21 Inter-local Participation:

- 10.21.1** SMHA may from time to time enter into inter-local Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance SMHA's purchasing power. At SMHA's sole discretion and option, SMHA may inform other Entities that they may acquire items listed in this IFB. Such acquisition(s) shall be at the prices stated herein, and shall be subject to Vendor's acceptance.
- 10.21.2** In no event shall SMHA be considered a dealer, remarketer, agent or other representative of Vendor(s) or Entity. Further, SMHA shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.
- 10.21.3** Purchase orders shall be submitted to Vendor(s) by the individual entity.
- 10.21.4** SMHA shall not be liable or responsible for any obligation, including but not limited to, payment and for any item ordered by an Entity, other than SMHA.

10.22 Right to Data and Patent Rights: In addition to ownership and use rights SMHA shall have exclusive ownership of all, proprietary interest in, and the right to full and exclusive possession of all information, materials, documents, software, and all electronic data discovered or produced by Vendor(s) or sub-vendor(s) pursuant to the terms of any resulting contracting, including but not limited to, reports, memoranda or letters concerning the research and reporting tasks of any resulting contract. Both parties agree to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent and Copyright Infringement.

10.23 Lobbying Certification: By proposing to do business with SMHA or by doing business with SMHA, each Bidder certifies the following:

- 10.23.1** No Federally appropriated funds have been paid or will be paid, by or on behalf of the Bidder, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

- 10.23.2** If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of the agency, a Member of Congress, an officer or employee of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form "Disclosure Form to Report Lobbying" in accordance with its instructions.
- 10.23.3** The successful Bidder shall require that the language of this certification be included in the award documents for all sub-awards at all tiers, (including but not limited to subvendors, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

10.24 Applicable Statutes, Regulations & Orders: Vendor(s) shall comply with all statutes, rules, regulations executive orders affecting procurements by Housing Authorities including but not limited to:

- 10.24.1** Executive Order 11246
- 10.24.2** Executive Order 11061
- 10.24.3** Copeland "Anti-Kickback" Act (18 USC 874)
- 10.24.4** Clean Air & Water Act (42 USC 1857(h); 33 USC 1368)
- 10.24.5** Energy Policy & Conservation Act (PL 94-163. 89 STAT 871)
- 10.24.6** Civil Rights Act of 1964, Title VI (PL 88-352)
- 10.24.7** Civil Rights Act of 1968, Title VII (PL 90-284 Fair Housing Act)
- 10.24.8** Age Discrimination Act of 1975
- 10.24.9** Anti-Drug Abuse Act of 1988 (42 USC 11901 et. Seq.)
- 10.24.10** HUD Information Bulletin 909-23
- 10.24.11** Immigration Reform & Control Act of 1986
- 10.24.12** Fair Labor Standards Act (29 USC 201 et. Seq.)

10.25 Additional Information: Each provision of law and each clause, which is required by law to be inserted in this IFB or any contract, shall be deemed to have been inserted herein, and this IFB and any resulting contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party. The aforementioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessarily applicable nor is an omission of such statute, regulation or executive order intended to indication that it is not applicable.

10.26 Conflicting Conditions: In the event there is a conflict between the documents comprising this IFB and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached/referenced HUD forms and the terms/conditions in the body of any resulting contract; (2) the IFB; and (3) Vendor's Response. In the event

that a conflict exists between any state statute or federal law the most restrictive terms shall apply.

- 10.27 Contract Form:** SMHA will not execute a contract on the successful Bidder's form. Contracts will only be executed on SMHA's form. By submitting a bid, the successful Bidder agrees to this condition. However, SMHA will consider any contract clauses that the Bidder wishes to include therein, but the failure of SMHA to include such clauses does not give the successful Bidder the right to refuse to execute SMHA's contract form. It is the responsibility of each prospective Bidder to notify SMHA, in writing, with the bid submittal of any contract clauses that he/she is not willing to include in the final execute contract. SMHA will consider such clauses and determine whether or not to amend the contract.
- 10.28 Contract:** Once contract is issued to successful bidder it needs to be signed and returned to SMHA within 2 business days. If not SMHA reserves the right to move to the next bidder in line.
- 10.29 Force Majeure:** Neither SMHA nor Vendor(s) shall be held responsible for delays nor default caused by fire, flood, riots, acts of God or war where such cause was beyond, respectively, SMHA or Vendor's reasonable control. Vendor(s) shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this agreement.
- 10.30 Most Favored Customer:** The Vendor(s) agrees that if during the term of any resulting contract, the Vendor(s) enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the resulting contract at SMHA's option, will be amended to afford equivalent advantage to SMHA.
- 10.31 Lapse in Insurance Coverage:** In the event Vendor(s) fails to maintain insurance as required by a resulting contract, the Vendor(s) shall immediately cure such lapse in insurance coverage at the Vendor's expense, and pay SMHA in full for all costs and expenses incurred by SMHA under this contract as a result of the Vendor's failure to maintain insurance as required, including costs and reasonable attorney's fees relating to SMHA's attempts to cure such lapse in insurance coverage. Such costs and attorney fees, not to exceed fifteen hundred and 00/100 dollars (\$1,500.00), shall be automatically deducted from monies or payments owed to Vendor(s). Moreover, SMHA shall retain from monies or payments owe to Vendor(s) by SMHA five percent (5%) of the value of the contract and place this retainage into an account to cover SMHA's potential exposure to liability during the period of such lapse. This retainage shall be held by SMHA until six (6) months after the term of the resulting contract has ended or has otherwise been terminated, cancelled or expired and shall be released if no claims are received or lawsuits filed against SMHA for any matter that should have been covered by the required insurance

Attachment A

SCOPE OF WORK/TECHNICAL SPECIFICATIONS

A1.0 SMHA is seeking sealed bids from qualified, licensed, Vendors with demonstrated competence and experience to provide all labor and material required to provide MRO supplies and other related products detailed below. Where specific products are identified, such identification is for reference only. Such references establish only quality or design standards. In fact, any other products that clearly and demonstrably meet the standards are also acceptable.

In addition to the supply of the products listed, SMHA is also seeking suppliers who can provide secure lockers within our various facilities to house a variety of the products that are provided under this scope of work, and will regularly (at least weekly, by on-site visits) review the inventory at those sites and provide replenishments as needed to meet minimum inventory parameters as agreed to by SMHA and the supplier. Employees of SMHA shall be able to access product within the lockers by swiping their SMHA ID badge and specifying the work order number the product is needed for and the quantity that they are removing from the locker. Detailed transaction history shall be provided to SMHA. The contents of the transaction report and the reporting interval shall be mutually agreed to by SMHA and the supplier. Bidders shall indicate sizes and configurations of the lockers that they can provide, and whether the cost of these lockers is incorporated into the product costs or if there is a separate rental fee for the lockers. Exact sizes and configurations of these lockers at each SMHA location shall be agreed to by SMHA and the supplier.

Lockers shall be of the approximate size and configuration as follows:

- 3 Door (approximately 72"H X 30"W X 24"D)
- 4 Door (approximately 78"H X 40.5"W X 31"D)
- 12 Door (approximately 72"H X 30"W X 24"D)
- 18 Door (approximately 78"H X 40.5"W X 26.5"D)
- 27 Door (approximately 78"H X 40.5"W X 26.5"D)

Sites will have the following approximate combinations of lockers:

- Turner: 3 12 Door Lockers
- Central: 3 12 Door Lockers
- Jackson: 1 18 Door and 1 27 Door Locker
- Scattered Sites: 3 12 Door and 1 4 Door Locker
- Linwood: 3 12 Door Lockers
- Girard Gardens: 1 27 Door, 1 18 Door and 1 3 Door Locker
- Ellisdale: 3 12 Door Lockers
- Alliance: 1 18 Door, 1 27 Door and 1 4 Door Locker
- Massillon 1 18 Door, 1 27 Door and 1 3 Door Locker

DETAILED SPECIFICATIONS ON FOLLOWING PAGES

| Product Description | Unit size | | Manufacturer | | Manufacturer's Part Number | | Unit Price |
|--|------------------|--|----------------------------|--|-----------------------------------|--|-------------------|
| <i>D Procell Alk Btry</i> | <i>EA</i> | | <i>Duracell</i> | | <i>0004133311340</i> | | |
| <i>KWIK SEAL Caulk</i> | <i>EA</i> | | <i>DAP Products</i> | | <i>18001</i> | | |
| <i>8.5x11CopyPpr500Ct</i> | <i>EA</i> | | <i>Aspect</i> | | | | |
| <i>COMET POWDER, 21 OZ</i> | <i>EA</i> | | | | | | |
| <i>Pro EasyOff FFOven 20oz.</i> | <i>EA</i> | | <i>Reckitt Benckiser</i> | | <i>RAC74017</i> | | |
| <i>1gal Ultra Stripper</i> | <i>EA</i> | | <i>Multi-Clean</i> | | <i>903983</i> | | |
| <i>45gal Trash Bag 1.7MIL</i> | <i>10PK</i> | | <i>Clean Choice</i> | | | | |
| <i>Mop Head 21 oz.</i> | <i>EA</i> | | <i>Clean Choice</i> | | | | |
| <i>Disinfectant Spray 20 oz.</i> | <i>EA</i> | | <i>Clean Choice</i> | | | | |
| <i>Glass Cleaner 20 oz.</i> | <i>EA</i> | | <i>Clean Choice</i> | | | | |
| <i>Floor Finish 5 GAL</i> | <i>EA</i> | | <i>ZEP</i> | | <i>1041556</i> | | |
| <i>1Qt Bowl Cleaner</i> | <i>EA</i> | | <i>Clean Choice</i> | | | | |
| <i>Smoke Odor Elmnr</i> | <i>EA</i> | | <i>ZEP</i> | | <i>ZUSOE16</i> | | |
| <i>Mold/Mildew Remover 1 GAL</i> | <i>EA</i> | | <i>ZEP</i> | | <i>ZUMILDEW12</i> | | |
| <i>Terry Towel</i> | <i>EA</i> | | <i>AbilityOne</i> | | <i>7920-01-454-1150</i> | | |
| <i>Entry Lighting</i> | <i>EA</i> | | <i>ETI Solid State</i> | | <i>FM-12-14-840-SV-D-E</i> | | |
| <i>SPIC & SPAN Ind. Strength Cleaner 3.78L</i> | <i>EA</i> | | | | | | |
| <i>Outlet, Ivory, 2 Pol</i> | <i>EA</i> | | <i>HubbellPro</i> | | <i>GF20I</i> | | |
| <i>KILZ 2 - 1 GALLON PRIMER</i> | <i>EA</i> | | | | | | |
| <i>Medium6milBlueGlove</i> | <i>100PK</i> | | <i>Body Guard</i> | | <i>1334823</i> | | |
| <i>6"x6" Al Wall Patch</i> | <i>EA</i> | | <i>Hyde Tools</i> | | <i>09899</i> | | |
| <i>2 Handle Faucet</i> | <i>EA</i> | | <i>Moen Commercial</i> | | <i>64900</i> | | |
| <i>Bleach Chlor 1GL</i> | <i>EA</i> | | <i>KIK Custom Products</i> | | <i>11008635042</i> | | |
| <i>ChromeKitchenFaucet</i> | <i>EA</i> | | <i>Moen Commercial</i> | | <i>7425</i> | | |
| <i>Lemon Wipes 35Ct</i> | <i>EA</i> | | <i>Clorox</i> | | <i>CLO01594CT</i> | | |
| <i>Fabuloso 1 GAL</i> | <i>EA</i> | | <i>Essendant</i> | | <i>CPC05253</i> | | |

PLEASE NOTE: If applicable, SMHA is providing any aforementioned brand names as a sample only so that Bidders have a better understanding as to the minimum product standards that SMHA desires. As required by HUD regulation, propose an "equal" or "same as" product, as long as such product is substantially equivalent to the products identified above. Also, all specifications are subject to normal manufacturing tolerances.

Attachment B

Form of Bid

FORM OF BID

B1.0 Submittal Checklist:

B1.1. Instructions: THIS FORM IS MANDATORY AND SHALL BE FULLY COMPLETED AND SUBMITTED UNDER TAB 1 OF THE BID SUBMITTAL. Unless otherwise specifically required, the items listed below shall be completed and included in the bid submittal. Descriptions of each requirement can be found in Section 5.0 Form of Bid. **Do not omit any tabs, if the information requested does not apply please put “Not Applicable” under the accompanying tab in the submittal. FAILURE TO SUBMIT ALL REQUIRED INFORMATION MAY RESULT IN DISQUALIFICATION OF THE BID SUBMITTAL FROM CONSIDERATION FOR AWARD.** Complete this form by marking an “X”, where provided, to verify that the referenced completed form or information has been included within the “hard copy” bid submittal submitted by the Bidder. Submit one (1) unbound original (the “hard copy”) and one (1) electronic copy (CD) of the following documents:

| X | Tab # | Documents Required in Submittal | Attachments |
|---|-------|--|-------------|
| | 1 | Form of Bid | B |
| | 2 | Bid Fee Sheet (including acknowledgement of Addenda & HUD Forms) | C |
| | 3 | Bidder’s Certification Form | D |
| | 4 | List of Past Performance/Experience/Client Information | E |
| | 5 | Copy of Insurance Certificate | |
| | 6 | Copy of Workmen’s Compensation Certificate | |
| | 7 | Vendor Registration Forms & W-9 | F |

B1.2 By signing below, the Bidder agrees that all of the aforementioned Tabs have been included in their bid submittal, and acknowledge that any of the required information, including this page, omitted from the bid submittal may result in their bid being disqualified from consideration for award.

Signature

Date

Attachment C

Bid Fee Sheet

BID FEE SHEET

C1.0 Costs to perform work (as detailed in the **Attachment A**). Costs shall be fully burdened.

Insert part numbers and machine information here.

C2.0 Discount

C2.1 Discount offered for early payment: _____% if invoice paid within _____ days of properly submitted invoice as stated in the IFB.

C3.0 HUD Form Acknowledgements: The HUD Forms referenced below shall be acknowledged with a signature and date. These Forms are included herein as **Attachment N**. It is the responsibility of the Bidder to read and acknowledge these Forms as they will be incorporated as part of any resulting contract.

HUD 5369 _____ **Date** _____

C4.2 HUD 5369-A _____ **Date** _____

C4.3 HUD 5370 _____ **Date** _____

C4.0 Addenda Acknowledgements: Any addenda issued by SMHA shall be acknowledged with a signature and date. All addenda will be posted on the SMHA website. It is the responsibility of the Bidder to find, read, and acknowledge these addenda as they will be incorporated here as a part of this solicitation and any resulting contract.

C5.1 Addendum #1 _____ **Date** _____

C5.2 Addendum #2 _____ **Date** _____

C5.3 Addendum #3 _____ **Date** _____

C5.4 Addendum #4 _____ **Date** _____

C5.0 Company Name/Contact Information

C6.1 Company Name: _____

C6.2 Address: _____

C5.3 Phone: _____

C5.4 Email: _____

C5.5 Authorize Agent Signature: _____

C5.6 Authorize Agent Name (Printed): _____

Attachment D

BIDDER'S CERTIFICATION

By signing below, Bidder certifies that the following statements are true and correct:

- D1.0** He/she has full authority to bind Bidder and that no member of Proposer's organization is disbarred, suspended or otherwise prohibited from contracting with any Federal, State, or Local agency,
- D2.0** Items for which Bidders were provided herein will be delivered as specified in the bid,
- D3.0** In performing this contract, the Vendor(s) shall comply will any and all applicable Federal, State, and Local laws including but not limited to: Occupation Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.,
- D4.0** Bidder agrees that this bid shall remain open and valid for at least a period of 90 days from the date of the Bid Opening and that this bid shall constitute an offer, which, if accepted by SMHA and subject to the terms and conditions of such acceptance, shall result in a contract between SMHA and the undersigned Bidder,
- D5.0** He/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this bid,
- D6.0** Bidder, nor the firm, corporation, partnership, or institution represented by the Bidder, or anyone acting for such firm, corporation, partnership, or institution has violated the antitrust laws of the State of Ohio or the Federal Antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business,
- D7.0** Bidder has not received compensation for participation in the preparation of the specifications for this IFB,
- D8.0** **Non-Collusive Affidavit:** The undersigned party submitting this bid hereby certifies that such bid is genuine and not collusive and that said Bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any Bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other Bidder, to fix overhead profit or cost element of said bid price, or that of any other Bidder or to secure any advantage against SMHA or any person interested in the proposed contract and that all statements in said bid are true,
- D9.0** He/she has full authority to bind Bidder and that no member of Proposer's organization is disbarred, suspend or otherwise prohibited from contracting with any Federal, State, or Local agency, and the individual or business entity named in this bid is eligible to receive the specified payment and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate,

D10.0 Lobbying Prohibition: The Vendor(s) agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of federally appropriated funds 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 any cooperative agreement or the modification of any federal contract, grant, loan, or cooperative agreement.

Signed: _____

Print Name: _____

Print Company Name: _____

Date: _____

Seal (if Corporation)

Attachment E

List of Past Performance/Experience/Client Information

LIST OF PAST PERFORMANCE/EXPERIENCE/CLIENT INFORMATION

E1.0 Instructions: The Bidders shall submit three (3) former or current clients, preferably other than SMHA, for whom the Bidder has performed similar or like services to those being proposed herein

E2.0 List of Past Performance/Experience/Client Information

E2.1 Client #1

Company _____ Name: _____

Address: _____

Email: _____

Phone Number: _____

Contact Person: _____

Brief Description of Similar Work Performed: _____

E2.2 Client #2

Company _____ Name: _____

Address: _____

Email: _____

Phone Number: _____

Contact Person: _____

Brief Description of Similar Work Performed: _____

E2.3 Client #3

Company Name: _____

Attachment F

Vendor Registration Forms & W-9

Attachment G

HUD Forms

Table 5.1

HUD 5370

**TABLE 5.1 MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES
OTHER THAN CONSTRUCTION**

The following contract clauses are required in contracts pursuant to 24 CFR 85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and vendor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

Examination and Retention of Vendor's Records. The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Vendor'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.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA 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 Vendor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

Energy Efficiency The Vendor shall comply with **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.

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 Vendor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered material practicable, consistent with maintaining a satisfactory level of competition. The Vendor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Vendor 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 Vendor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Vendor: (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.

Termination for Cause and for Convenience (contracts of \$10,000 or more).

- (a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the Vendor to fulfill the contract obligations (cause/default). The PHA shall terminate by delivering to the Vendor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Vendor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.
- (b) If the termination is for the convenience of the PHA, the PHA 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 Vendor to fulfill its obligations under the contract (cause/default), the PHA may (1) require the Vendor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract or otherwise and the Vendor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Vendor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Vendor. In the event of termination for cause/default, the PHA shall be liable to the Vendor for reasonable costs incurred by the Vendor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

General Conditions for Non-Construction Contracts

Section I - (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

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

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Section I Clauses for All Non-Construction Contracts greater than \$100,000
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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 Vendor. 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) "Vendor" 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 Vendor 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 Vendor from proceeding with the contract as changed.
 - (e) No services for which an additional cost or fee will be charged by the Vendor 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 Vendor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Vendor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Vendor 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 Vendor to fulfill its obligations under the contract (default), the HA may (i) require the Vendor 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 Vendor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Vendor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Vendor.
 - (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Vendor had not failed the termination shall be deemed to have been effected for the convenience of the HA, and the Vendor 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 Vendor'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 Vendor'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.

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

7. Disputes

- (a) All disputes arising under or relating to this contract, *except for disputes arising under clauses contained in Section II, 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 Vendor shall be made in writing and submitted to the HA. A claim by the HA against the Vendor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Vendor, 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 Vendor 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 Vendor 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 Vendor 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 Vendor and a subvendor as provided in 24 CFR Part 24.

9. Assignment of Contract

The Vendor 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 Vendor 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 Vendor 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 Vendor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Vendor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Vendor 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 vendor'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 Vendor's objectivity in performing the contract work may be impaired.
- (b) The Vendor 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 Vendor 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 Vendor 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 Vendor. The Vendor 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 Vendor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Vendor. 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 Vendor.

- (b) The Vendor 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 Vendor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Vendor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4508). 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 vendors, subvendors 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 Vendor agrees as follows:

- (a) The Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Vendor 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 Vendor 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 Vendor shall, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Vendor 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 Vendor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Vendor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Vendor 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. Vendor's Status

It is understood that the Vendor is an independent vendor 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 Vendor's activities on behalf of the HA in connection with this Agreement.

19. Other Vendors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The vendor shall fully cooperate with the other vendors 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 vendor shall not commit or permit any act that will interfere with the performance of work by any other vendor or HA employee.

20. Liens

The Vendor 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 vendor agrees to send to each labor organization or representative of workers with which the vendor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the vendor'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 vendor 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 subvendor is in violation of the regulations in 24 CFR Part 135. The vendor will not subcontract with any subvendor where the vendor has notice or knowledge that the subvendor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The vendor will certify that any vacant employment positions, including training positions, that are filled (1) after the vendor 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 vendor'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 Vendor 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 Vendor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Vendor 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 Vendor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Vendor: (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.