



Newport News Redevelopment & Housing Authority
Division of Purchasing
227 – 27th Street • P.O. Box 797
Newport News, VA 23607
Phone: (757) 928-2632 Fax: (757) 247-6535
www.nnrha.com

Request for Proposals

RFP #FPR-07-22

Residential Façade Program

Issue Date: July 18th, 2022

Closing Date: August 31st, 2022@ 2:00 pm

Craig D. McCullough
Procurement Manager

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NOTE:

“ALL FORMS IDENTIFIED WITH A **RED** * MUST BE COMPLETED AND SUBMITTED WITH PACKAGE”.



Newport News Redevelopment & Housing Authority
Division of Purchasing
227 27th Street P.O. Box 797
Newport News, VA 23607
Phone: (757) 928-2623 Fax: (757) 245-2144
<http://www.nnrha.com>

Request for Proposals
RFP# FPR-07-22
July 18, 2022

Residential Façade Program
Proposal Due Date and Time: August 31, 2022 @ 2:00 PM

Sealed proposals, subject to the conditions and instructions contained herein, will be received at the above office until the date and hour shown (local prevailing time) for furnishing the described equipment materials, and/or services, for delivery and/or performance F.O.B. Newport News, VA. **Proposals received in the issuing office after the date and time may not be considered.** Newport News Redevelopment and Housing Authority is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra-authority mail system. **It is the sole responsibility of the offeror to ensure that its proposal reaches the issuing office by the designated date and hour.** The official time used in the receipt of offers is that time on the automatic time stamp machine or other documentary evidence of receipt in the issuing office.

All requests for interpretation of specifications shall be by written request, sent via facsimile to (757) 245-2144 or emailed to cmccullough@nnrha.org. Any changes to this document will be issued as addenda and will be on file in the Division of Purchasing. All such addenda will become part of the contract and all offerors will be bound by such addenda, whether or not received by the offeror. **Written questions must be submitted ten (10) days prior to the closing date of the bid, last day for written questions is, August 22, 2022**

PLEASE NOTE: The Wilbern Building is closed daily between the hours of 12:00 noon to 1:00 p.m.

This form must be signed, as well as subsequent addenda, and all pages returned in a sealed envelope. All signatures must be original and not photocopies.

The undersigned certifies they have read, understands, and agree to all terms, conditions, and requirements of the proposal, and is authorized to contract on behalf of the firm named below.

Company Name: _____ Federal Tax ID: _____

Address: _____ City/State/Zip: _____

Telephone: _____ Fax Number: _____ E-mail: _____

Print Name: _____ Title: _____

Signature: _____ Date: _____

I. Purpose:

The Residential Façade Program is directed specifically at housing revitalization in the Marshall-Ridley Choice Neighborhood Initiative area. The program has a \$2.1 million dollar funding capacity (includes administrative costs) with a \$20,000.00 maximum grant per home (project) to assist with exterior improvements on privately owned residential structures located in the Choice Neighborhood Initiative area. The purpose of this Request for Proposal is to establish a contract with a qualified Program Manager to oversee performance of work on qualifying projects. Newport News Redevelopment and Housing Authority (NNRHA) will provide the overall management of the program to include establishing residential and contract criteria for participation in the program. The selected Program Manager will provide contractor performance and compliance oversight. The resulting contract will be for 1 year with options for 3 additional years, contingent upon funding availability and at the sole discretion of NNRHA. We anticipate servicing approximately 4 projects per month; however there are no minimum or maximum projects guaranteed.

II. Background:

Founded in 1939, Newport News Redevelopment and Housing Authority (NNRHA) is the primary provider of new homebuyer opportunities and affordable housing for low and moderate income families in Newport News. NNRHA administers subsidized housing and is the redevelopment arm for the City of Newport News and acquires property for redevelopment, undertakes property rehabilitation and manages the City's Consolidated Housing Plan and Community Development programs. NNRHA administers 3054 Housing Choice Vouchers (Section 8) and owns and manages 839 affordable rental housing units throughout the city. NNRHA has established strong partnerships with public and private organizations to address the community's revitalization through a comprehensive strategy. Seven commissioners serve as the governing board of NNRHA. The Executive Director serves at their pleasure and is assisted by a Deputy and four Department Directors to accomplish the goals and mission of the organization. NNRHA has approximately 115 employees.

The mission of NNRHA is to maintain and create affordable housing, viable neighborhoods, and opportunities for self-sufficiency that enhances the quality of life for all citizens of Newport News.

III. Scope of Work:

The selected Program Manager will have the responsibility for the following tasks:

- Assisting NNRHA with establishing and qualifying a list of contractors to participate in the program. Ensuring each contractor performing the work has the required licensing and insurance.

- Assisting NNRHA in the development and marketing of program and outreach materials.
- Conducting an initial exterior inspection of each property to determine the presence of any code violations, as well as the intent of the homeowners relative to the work.
- Utilizing information from the homeowner, exterior inspection and application for assistance in preparing the scope of work and the Invitation for Bid (IFB).
- Preparing a confidential cost estimate to determine if the project cost is within the program guidelines.
- Assisting (if requested) NNRHA with IFB preparation, evaluation of bids and recommendations for contract award.
- Providing weekly contractor performance and compliance oversight during the construction phase to include periodic site visits to ensure work is being performed according to federal, state and local laws and regulations. Attend meetings as requested.
- Review change order requests and along with NNRHA determine the disposition of the request.
- Assisting in the settlement of any disputes between contractors and property owners, including issues relating to warranties.
- Reviewing contractor payment requests. The review shall include compliance with prevailing wage rates, if applicable.
- Conducting the final inspection, upon notification of project completion, preferably with the homeowner present. If it is determined that the project is not completed, develop a “punch list” with a follow-up inspection of items to be completed.
- Forwarding approved invoices to NNRHA for payment.
- Assist NNRHA with the program and financial reports to include expenditures for each project.

IV. Proposal Preparation and Submission:

A. General Requirements:

1. RFP Response:

In order to be considered for selection, Offeror's must submit a complete response to this RFP. Original and (5) copies of the response to this RFP shall be submitted in sealed packages and marked "Residential Façade Program" – RFP #FPR-07-22. All submissions must be received at:

Newport News Redevelopment and Housing Authority
Procurement Division
227-27th Street
Newport News, VA 23607

Newport News Redevelopment and Housing Authority reserves the right to reject any or all responses whenever it is in their best interest. NNRHA is an Equal Opportunity Employer and Minority and Women-owned businesses are encouraged to submit a proposal.

2. Proposal Preparation:

- a) Proposals shall be signed by an authorized representative of the offeror. All information requested must be submitted. Failure to submit all information requested may result in NNRHA requiring prompt submission of the missing information or a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by NNRHA at its discretion. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b) Proposals should be prepared simply and economically providing straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- c) Past performance shall not be older than five (5) years. Any past performance submitted that is older than five years may not be counted as experience.
- d) Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. The proposal should contain a table of contents which cross references the RFP requirements. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
- e) Ownership of all data, material, and documentation originated and prepared for NNRHA pursuant to the RFP shall belong exclusively to

NNRHA and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, to prevent disclosure the offeror must invoke the protections of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other materials are submitted. The written request must specifically identify the data or other materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and may result in rejection of the proposal.

3. Submission Requirements

Respondents shall submit the following documentation in the order listed.

Tab 1 – Cover Letter

A cover letter which includes an introduction summary and provides evidence that the respondent understands and has the ability to perform the services requested in this solicitation.

Tab 2 – Experience, Key Personnel and Approach

A description of the respondent's overall knowledge of the processes required for construction and project management and experience in the areas listed below. Include the names, resumes and roles of key personnel who will be assigned to this engagement.

- Construction and Project Management Services for other agencies including Public Housing Authorities of similar size and scope, including your methodology, approach, and description of projects including project timelines.
- Through knowledge of the City of Newport News zoning ordinance, building codes and all applicable laws and regulations.

- Professional qualifications and experience of personnel assigned to the project. Provide an organization chart/structure for the team completing the work.

Tab 3 – Costs

Complete the Fee Proposal Form Attachment – A, which provides the fee structure for the provision of services.

Tab 4 – Exceptions Agreements

Agreement for services will be based upon the RFP and the offeror’s proposal. The offeror must include with the proposal a description of any exceptions to the scope of work. If there are none, a statement to that effect must be included in the proposal.

V. Evaluation of Proposals

The RFP Evaluation Committee will evaluate all responsive proposals received by NNRHA within the established deadline that meet the submissions requirements. NNRHA reserves the right to reject any or all responses or to terminate negotiations at any time. Proposals will be reviewed and scored on a competitive basis using the evaluation criteria below:

EXPERIENCE AND KEY PERSONNEL	Maximum Points
Demonstrated understanding of the services requested including previous experience in construction and project management. Capability and experience of key personnel as indicated by profiles of the principals and assigned team members describing their professional technical competence and relevant experience with projects of similar size and scope.	50
APPROACH	Maximum Points
Clarity of overall methodology for completing the project. Demonstrated ability to perform services and complete all tasks within the desired timeframe.	30
COSTS	Maximum Points
Competitiveness and reasonableness of overall total costs.	20
TOTAL POSSIBLE POINTS	100

VI. Selection Process

During the initial evaluation phase, proposals are technically reviewed by the Evaluation Committee which determines if all requirements of the RFP are addressed.

Once the qualified Offerors have been determined, the Evaluation Committee shall rank all proposals. Selection shall be made of two or more offerors deemed to be fully qualified and best suited based on the factors listed in the RFP. Negotiations shall then be conducted with each of the Offerors so selected. After negotiations have been conducted with each offeror so selected, award shall be made to the offeror that submitted the best proposal and provides the best value. The short listed firms may be invited to an interview at the sole discretion of NNRHA. The purpose of the interview will be to clarify any section of the proposal and answer any questions from the committee.

VII. Amendments

Amendments for this solicitation will be posted at <http://nnrha.com/solicitations.html>. Check the website regularly for updates. Failure to acknowledge amendments may affect eligibility for a contract award.

VIII. Insurance Limits

Here are the minimum Insurance Coverage and Limits Required by Contractors:

- A. Worker's Compensation – The contractor shall obtain and maintain worker's compensation insurance as required by statutory requirement and benefits, and in such policy, limits as mandated by the State.
- B. Automobile Liability (minimum) - \$1,000,000 combined single limit.
- C. Commercial General Liability (minimum) - \$1,000,000 per occurrence, \$2,000,000 general aggregate, including \$1,000,000 for fire damage. Commercial General Liability including bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. **NNRHA must be named as an additional insured and so endorsed on the policy.**

IX. Laws and Regulations

The Offeror shall keep fully informed of all federal, state and local laws, ordinance and regulations that in any manner affect the conduct of the work. The consultant shall at all times observe and comply with all such laws, ordinances and regulations.

FEE PROPOSAL FORM

RFP #FPR-07-22

Proposed fee for Construction and Property Management costs:

Company Name: _____

Initial Year (per Project percentage) \$ _____

Year One (per project percentage) \$ _____

Year Two (per project percentage) \$ _____

Year Three (per project percentage) \$ _____

Printed Name:

Signature:

TERMS AND CONDITIONS

1. **ADMINISTRATIVE APPEAL PROCEDURES:** NNRHA has established an administrative procedure for hearing protests of a decision to award, or an award, appeals from refusals to allow withdrawal of bids or proposals, appeals from disqualification's and determinations of non-responsibility, and appeals from decisions on disputes arising during the performance of the contract. Administrative appeals procedures can be obtained through the Division of Purchasing. If the dispute is regarding the contract, the Contractor shall proceed diligently with performance, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Procurement Officer or the Contracting Officer.

A protest of a decision to award or an award shall be submitted within ten (10) days after the award or the announcement of the decision to award, whichever occurs first. An appeal from refusal to allow withdrawal of a solicitation shall be submitted within ten (10) days after receipt of the decision. An appeal from a determination of non-responsibility shall be submitted within ten (10) days after receipt of the decision. An appeal from a decision resulting from a contract dispute shall be submitted within sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence of the work upon which the claim is based.

Contractors are prohibited from placing a lien on NNRHA's property. This prohibition shall apply to all Subcontractors.

2. **ADVERTISEMENT:** It is understood and agreed that, in the event a contract is awarded for the services included in this solicitation, no indications of such services to NNRHA will be used in any way in product literature or advertising without written approval of NNRHA except for bibliographical and curriculum vitae purposes and when required in response to a request for solicitation by a prospective client.
3. **ANTI-DISCRIMINATION AND A DRUG FREE WORKPLACE:** By submitting their bids or proposals, bidders or offerors certify to NNRHA that they will conform to the provisions of the Federal Civil Rights Act of 1964, the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, The Americans with Disabilities Act and 2.2-4311 and 2.2-4312 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body.

In every contract over \$10,000 the following provisions apply. (1) During the performance of this contract, the Contractor agrees to: (a) Not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. (b) Provide a drug-free workplace for the Contractor's employees. (c) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Also, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition. (d) In all solicitations or advertisements

for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer and maintains a drug-free workplace. (e) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

(2) The Contractor will include the provisions above in every subcontract or purchase order over \$10,000, so that the provision will be binding upon each Subcontractor or vendor.

For the purposes of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

4. **ANTITRUST**: By entering into a contract, the Contractor conveys, sells, assigns, and transfers to NNRHA all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia relating to the particular goods or services purchased or acquired under said contract.
5. **APPLICABLE LAW AND COURTS**: This solicitation and any contract resulting from this solicitation shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the City of Newport News, VA. The Contractor shall comply with all applicable federal, state, local laws and regulations. The Contractor shall procure any permits and licenses required for its business as the services to be provided by it hereunder.
6. **ASBESTOS**: Whenever and wherever during the course of performing any work under this contract, the Contractor discovers the presence of asbestos or suspect that asbestos is present; the Contractor shall stop the work immediately, secure the area, notify the building owner and await positive identification of the suspect material. During the downtime in such a case, the Contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. In the event the Contractor is delayed due to the discovery of asbestos or suspected asbestos, then a mutually agreed extension of time to perform the work shall be allowed the Contractor but without additional compensation due to the time extension.
7. **ASSIGNMENT OF CONTRACT**: A contract shall not be assignable by the Contractor in whole or in part without the written consent of NNRHA.
8. **AUDIT**: The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited, whichever is sooner. The agency, its authorized agents, and/or state and federal auditors shall have full access to and the right to examine any of said materials during said period.
9. **AVAILABILITY OF FUNDS**: It is understood and agreed between the parties herein that NNRHA shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
10. **AWARD OF CONTRACT**: Formal and informal bids and proposals will be awarded to the lowest responsible and responsive bidder(s) or most suitable offeror. The quality of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of NNRHA, and the delivery terms will be taken into consideration in making an award. Length of time for delivery as well as price may be considered in awarding of the contract. NNRHA is not liable for any cost incurred by the Contractor prior to issuance of a contract.

NNRHA also reserves the right to make multiple awards, by line item, lot, award based on overall lowest pricing, cancel or reject any or all bids or proposals, in whole or in part, to waive informalities and to delete

items prior to making the award, whenever it is deemed in the sole opinion of NNRHA to be in its best interest. Nothing herein shall bind NNRHA to purchase any services or specified quantity of an item/product. Be it further understood that NNRHA shall not be obligated to purchase or pay for any services or product listed unless and until officially ordered and received by NNRHA. NNRHA also reserves the right not to award a contract pursuant to this solicitation.

11. **BID/OFFER ACCEPTANCE PERIOD:** Any bid or offer in response to a solicitation shall be valid for ninety (90) days. At the end of the ninety (90) days the bid or offer may be withdrawn at the written request of the Bidder or Offeror. If the bid or offer is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
12. **CANCELLATION OF CONTRACT:** NNRHA reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon thirty (30) days written notice to the Contractor. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
13. **CHANGES TO THE CONTRACT:** The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. However, the terms and conditions of the contract will not change.

NNRHA may order changes within the general scope of the contract at any time by written notice to the Contractor. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the NNRHA and the Contractor, shall be incorporated in writing with a modification to the contract.

Contractor shall not perform any work that would result in exceeding the dollar limitation of this contract and/or purchase order without first supplying a quotation and obtaining written approval from the Division of Procurement.

14. **CLEAN AIR AND WATER EPS, ENERGY EFFICIENCY (APPLICABLE TO CONTRACTS IN EXCESS OF \$100,000):** The Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, EPA regulations (40 CFR Part 15) and Energy Policy and Conservation Act (Pub. L. 94-163).
15. **CONFLICT OF INTEREST:** The Contractor warrants that he has fully complied with the State and Local Government Conflict of Interests Act (Section 2.1-639.1 et seq. of the Code of Virginia), The Virginia Governmental Frauds Act (Section 18.2-498.1 et seq.), Articles 2 and 3 of Chapter 10 (Crimes Against the Administration of Justice) of Title 18.2, and article 4 (Ethics in Public Contracting) of the Public Procurement Act (section 11-72 et seq.).
16. **CONTRACT DOCUMENTS:** The contract entered into by the parties shall consist of this solicitation, the signed bid or proposal submitted by the Contractor, the notice of award, purchase order, the general and special terms and conditions, and specifications with drawings, if any, including all addenda or modifications thereof, all which shall be referred to collectively as the Contract Documents.

17. **CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) AS NNRHA'S AGENT:**

NNRHA will provide the Contractor the name of the designated representative(s) to administer this contract with the following responsibilities:

- A. Coordinating with the Contractor when services are needed and when they will begin.
- B. Day to day coordination of this service and assurance that services are delivered in accordance with the contract terms and conditions and purchase order.
- C. Promptly address problems or deviations from contract requirements or terms and conditions. If the problems or contract deviations continue, forward written vendor complaint, including recommended solutions, to the Procurement Officer so that adequate corrective action can be taken.
- D. Assurance that the contract dollar amount or terms and conditions are not exceeded, increased, decreased or modified in anyway without prior authorization from the Procurement Officer. If a modification or revision is required, supply the Procurement Officer with an approved change order request.
- E. After completion, promptly sign and date documents indicating the work has been completed and accepted.
- F. Complete and submit periodic evaluations of Contractor performance to the Procurement Officer.

18. **CONTRACTOR PERSONNEL:** The Contractor represents that it will secure, at its own expense, all personnel necessary to perform the required services hereunder. Such personnel shall not be employees of NNRHA nor shall they have any contractual relationship with NNRHA. All commitments made by the Contractor in the bid or proposal with respect to (i) the Contractor's qualifications and its satisfaction of mandatory requirements in the IFB or RFP and (ii) the number and qualifications of its personnel to be assigned to this Contract, shall be incorporated herein by this reference.

All the required services will be performed by the Contractor or under its supervision, and all personnel employed by the Contractor shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services. The Contractor shall not reassign any personnel specifically designated in the Bid or Proposal to perform services under this Contract without NNRHA's prior approval. The Contractor certifies that it will comply with NNRHA's request for the reassignment of any employee performing the required services hereunder when NNRHA determines, in its reasonable opinion that such employee is not suited to work on this Contract. Evidence of qualifications shall be made available to NNRHA upon request.

19. **CONTRACTOR REGISTRATION:** For construction contracts involving removal, repair or improvement of a building or other real property the following license is required.

Class A Contractors License: when the total value of a single contract or project is \$120,000.00 or more, or is \$750,000.00 or more over a 12 month period. The qualified individual identified for this license must have at least 5 years of experience.

Class B Contractors License: when the total value of a single contract or project is \$10,000.00 or more, but less than \$120,000.00, or is \$150,000.00 or more, but less than \$750,000.00 over a 12 month period. The qualified individual identified for this license must have at least 3 years of experience.

Class C Contractors License: when the total value of a single contract or project is over \$1,000.00 but no more than \$10,000.00, or is no more than \$150,000.00 over a 12 month period. The qualified individual identified for this license must have at least 2 years of experience.

Specialty designations beyond general contracting might include Plumbing or HVAC and will require further licensure.

The Board shall require a master tradesmen license as a condition of licensure for electrical, plumbing, heating, ventilation and air conditioning contractors.

Indicate what type of Contractor's license you hold and your Specialty.

Licensed Class A Virginia Contractor No _____	Specialty _____
Licensed Class B Virginia Contractor No _____	Specialty _____
Licensed Class C Virginia Contractor No _____	Specialty _____

If the bidder or offeror shall fail to provide this information in the bid/proposal or on the envelope containing the bid/proposal and shall fail to promptly provide their Contractor license number in writing when requested to do so before or after the opening of bids/proposals, they shall be deemed to be in violation of 54.1-1115 of the Code of Virginia (1950), as amended, and the bid/proposal will not be considered.

If the bidder fails to obtain the required license prior to submission of their bid, the bid shall not be considered.

20. **COPYRIGHT/PATENTS:** The Contractor guarantees to defend and save NNRHA, its agents and employees, harmless from liability, loss, damage and expense including reasonable counsel fees, resulting from any actual or claimed trademark, copyright, composition, secret process, patented or unpatented invention infringement, or any litigation based thereon, with respect to any part of the goods or services covered by this order.
21. **DEBARMENT/ SUSPENDED STATUS:** By submitting their response, bidders/offerors certifies, to the best of it's knowledge that they are not currently debarred or suspended by NNRHA, the Commonwealth of Virginia or the Federal Government from submitting offers or proposals on contracts of the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred or suspended.
22. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, NNRHA, after oral and written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies, which NNRHA, state and federal laws have in place.
23. **EQUAL OPPORTUNITY FOR BUSINESS AND UNEMPLOYED AND UNDEREMPLOYED PERSONS (HUD ACT OF 1968, SECTION 3):**

In accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701u, the Contractor shall, to the maximum extent practicable:

- (A) Provide training and employment opportunities to the unemployed and underemployed residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located; and
- (B) Award contracts for work in connection with the project to business concerns, which are located in or owned in substantial part by persons residing in the same metropolitan area or non-metropolitan County as the project.

The Contractor shall insert or cause to be inserted this same provision in each subcontract.

28. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their bid/proposal, bidders/offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.
29. **INSURANCE:** By signing and submitting a bid/proposal under this solicitation, the Bidder/Offeror certifies that if awarded the contract, they will have the following insurance coverage at the time the contract is awarded. The Contractor will have five (5) working days, upon notice of intent to award, to supply the Certificate of Insurance. The Bidder/Offeror further certifies that the Contractor and any Subcontractors will maintain this insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. The Contractor's insurance company will supply a Certificate of Insurance listing the below required limits and the Certificate of Insurance shall name NNRHA as an additional insured
- A. Minimum Insurance Coverages and Limits Required For Most Contracts:
- B. Worker's Compensation – The Contractor shall also obtain and maintain worker's compensation insurance as required by statutory requirements and benefits, and in such policy limits as mandated, by the State and shall require any Subcontractor engaged by the Contractor to satisfy such requirement as well. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify NNRHA of increases in the number of employees that change their worker's compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
- C. Automobile Liability (minimum) – \$1,000,000 combined single limit.
- D. Commercial General Liability (minimum) – \$1,000,000 per occurrence, \$2,000,000 general aggregate, including \$100,000 for fire damage. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. NNRHA must be named as an additional insured and so endorsed on the policy. The insurance for the additional insured shall be as broad as and at the same limits as that of the insured. Insurance shall be primary and any insurance maintained by the additionally insured shall be excess and non-contributory until all the limits of insurance have been exhausted through the payment of claims. All rights of subrogation are waived for the policies listed.
- E. The Contractor shall indemnify, hold harmless and defend NNRHA, its officers, agents, servants, and employees from and against any claims, demands, losses, liabilities, and damages, causes of actions and costs and expenses of whatsoever kind or nature arising from or related to:
- 1) the provision of services by or the failure to provide any services or the use of any services or materials furnished (or made available) by the Contractor or its agents, servants or employees;
 - 2) any conduct or misconduct of the Contractor or its agents, servants or employees not included in subparagraph (1) hereof and for which, its agents, servants or employees are alleged to be liable;
 - 3) the negligence or other actionable fault of any Subcontractors engaged by the Contractor; or
 - 4) claims, suits, actions or proceedings of whatsoever nature that are brought by the Contractor's employees, candidates for employment and statutory employees, as determined under the State worker's compensation laws.

If insurance is due to expire or renew during any contract period, it is the responsibility of the Contractor (including Subcontractors, as applicable) to furnish and assure that NNRHA, Division of Purchasing is in receipt of a current insurance certificate noting evidence of coverage. Expired insurance coverage during the course of any contract can be cause for immediate termination of all work, removal from NNRHA properties and cancellation of all contracts. Newport News Redevelopment & Housing Authority, P.O. Box 797, Newport News, VA 23607, will be named as additional insured on the certification with respect to the services being procured.

If the Contractor fails to supply the Procurement Officer the required certificate, the intent to award will be cancelled. Please see additional insurance requirements on HUD Form 5370 pertaining to builders risk insurance.

30. **INTEREST OF MEMBERS OF CONGRESS:** No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise there from.

31. **INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES AND FORMER MEMBERS, OFFICERS, OR EMPLOYEES:** No member, officer, or employee of NNRHA, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which NNRHA 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.

32. **LIMITATIONS ON PAYMENTS MADE TO INFLUENCE CERTAIN FEDERAL FINANCIAL TRANSACTIONS:**

A. The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement, or the modification of any Federal contract, grant, loan, or cooperative agreement.

B. The Contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

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

33. **MANDATORY USE OF NNRHA FORMS AND TERMS AND CONDITIONS:** Failure to submit a bid/offer on the official NNRHA forms provided for that purpose may be a cause for rejection of the bid/offer. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid/offer; however, NNRHA reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a solicitation.

34. **MINORITY BUSINESS PARTICIPATION:** The Contractor shall use its best efforts to comply with the commitment it has made in the Bid/Offer relative to the participation of businesses primarily (at least 51%)

owned by minorities, women or public housing residents or small businesses (collectively, 'Disadvantaged Business Enterprises') in the performance of this Contract. By executing this Contract, the Contractor accepts the right of NNRHA to appoint an employee to monitor the Contractor's compliance with the commitments and requirements of this paragraph. The Contractor agrees to promptly submit reports to NNRHA on request detailing the level of participation by Disadvantaged Business Enterprises in this Contract. NNRHA shall have the right to review all relevant documents of the Contractor relating to the participation of Disadvantaged Business Enterprises in this Contract on an ongoing basis. NNRHA reserves the right to evaluate the Contractor's performance with regard to the commitments and requirements of this paragraph on an annual basis.

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

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

When such business has been subcontracted to these firms and upon completion of the contract; the Contractor agrees to furnish the purchasing office the following information: Name of firm, phone number, total dollar amount subcontracted, and type of product/service provided.

35. **MULTIPLE CONTRACTORS ON SITE:** NNRHA reserves the right to let other contracts in connection with this project or any other project. Contractors are expected to allow opportunity for the introduction of materials and the performance and the coordination of work with each other. If work by the other Contractor impacts your work according to plans and specifications, it is the Contractor's responsibility to notify NNRHA COTR or Procurement Officer immediately.
36. **NO WAIVER:** No failure or delay by a party to insist on the strict performance of any term of this Contract, or to exercise any right or remedy consequent on a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. Neither this Contract nor any of its terms may be changed or modified, waived, or terminated (unless as otherwise provided hereunder) except by an instrument in writing signed by the party against whom the enforcement of the change, waiver or termination is sought. No waiver of any breach shall affect or alter this contract, but each and every term of this Contract shall continue in full force and effect with respect to any other than existing or subsequent breach thereof. The remedies provided in this Contract are cumulative and not exclusive of the remedies provided by law or in equity.

37. **NOTICES:**

- A. Any notice, instruction, request or demand required to be given or made to the Contractor hereunder shall be deemed to be duly and properly given or made if delivered or mailed, postage pre-paid, to the Contractor.
- B. Any notice, request, information, or documents required to be given or delivered hereunder by the Contractor to NNRHA or to any of its representatives, unless stated otherwise in this Contract, shall be signed or approved in writing by the Contractor, and shall be sufficiently given or delivered if mailed, certified or registered, postage prepaid to:

Newport News Redevelopment & Housing Authority
Division of Purchasing
227 – 27th Street
Newport News, VA 23607
ATTN: Procurement Officer

Or to such representative or address as may be designated in writing to the Contractor.

- 38. **OBLIGATION OF BIDDER/OFFEROR:** By submitting a bid/offer, the bidder/offeror agrees that they have satisfied themselves, from their own investigation of the conditions to be met, and their obligation. The Contractor will not make any claim for, or have right to cancellation or relief from the contract because of any misunderstanding or lack of information.
- 39. **ORDERING:** Any supplies and services to be furnished under this contract may be ordered by issuance of delivery orders by the individuals or activities designated in the solicitation. Such orders may be issued from the date of award through the expiration or termination of this contract. All task orders are subject to the terms and conditions of this contract. In the event of conflict between a task order and this contract, the contract shall prevail.
- 40. **PAYMENT:** The prime Contractor is to submit invoices for services rendered directly to P.O. Box 797, Newport News, VA 23607. All invoices shall refer to the contract and/or purchase order number; social security (for individual Contractors) on the federal employer identification number (for proprietorships, partnerships, and corporations). Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or acceptance, whichever occurs last. However, this shall not affect discounts for payment in less than 30 days. All goods and services provided under this contract/purchase order, which will be paid for with public funds, shall be billed by the Contractor at the contract prices, to include, itemization of charges. Contract will be performance based and fees will not be paid until the service or supplies, as defined in the response to these contract documents have been provided and accepted in the manner specified.

The following shall be deemed to be the date of payment after receipt of invoice: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

A. **Unreasonable Charges**

Upon determining that invoiced charges are not reasonable, the NNRHA shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable, and the basis for the determination. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges, which appear to be unreasonable, will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. A Contractor may not institute legal

action unless a settlement cannot be reached within thirty days of notification. The provisions of this section do not relieve NNRHA of its prompt payment obligations with respect to those charges, which are not in dispute (Code of Virginia § 2.2-4352).

B. Delays in Payment

NNRHA will make payment upon satisfactory completion, within thirty days. If work is not to the satisfaction of the COTR, the COTR will contact the Contractor to remedy the situation. Contractor will advise the COTR, in writing, of day and time task will be completed. If a new schedule is approved by COTR, and if the task is not completed within that time frame, NNRHA may proceed with default procedures. Reasons for not accepting Contractors work, and delaying payments, may include but are not limited to:

1. Submitting invoice without final inspection approval by COTR.
2. Incorrect Invoice, (i.e.) not billing according to the purchase order or contract.
3. Creating safety hazards.
4. Contractor failing to communicate completion of work.

41. **PERFORMANCE AND PAYMENT BONDS:** The successful bidder/offeror shall deliver to the purchasing office executed Commonwealth of Virginia Standard Performance and Labor and Material Payment Bonds, each in the sum of the contract amount, with the NNRHA as obligee. The surety shall be a surety company or companies approved by the State Corporation Commission to transact business in the Commonwealth of Virginia and acceptable to HUD and the Authority. No payment shall be due and payable to the Contractor, even if the contract has been performed in whole or in part, until the bonds have been delivered to and approved by the purchasing office. Standard bond forms will be provided by the purchasing office prior to or at the time of award. When the value of work for a General Contractor exceeds \$50,000.00 during the contract period (this includes initial award and all subsequent renewals), the General Contractor shall provide the Agency these bonds.

42. **PRIME CONTRACTOR'S RESPONSIBILITIES:** The Contractor shall be responsible for completely supervising and directing the work under this contract and all Subcontractors that he may utilize, using their best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees to being as fully responsible for the acts and omissions of Subcontractors and of persons employed by them as they are for the acts and omissions of their own employees. The Contractor shall be responsible for maintaining satisfactory standards of employee's competency conduct courtesy, appearance, honesty, and integrity and shall be responsible for taking such disciplinary action with respect to any employee, as may be necessary. Additionally, the prime Contractor shall:

- A. Ascertain that all services and work will be performed in a professional workman-like manner acceptable to NNRHA and consistent with accepted professional standards. If the Contractor or their staff is other than professional with residents or NNRHA staff, the Contractor may be found in default of this contract.
- B. Insert appropriate clauses in all subcontracts to bind Subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of Subcontractors.
- C. Within seven (7) days after receipt of amounts paid to the Contractor for services rendered by the subcontract either:
 1. Pay the Subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the Subcontractor under the contract; or

2. Notify the agency and Subcontractor, in writing, of the intention to withhold all or a part of the Subcontractor's payment with the reason for nonpayment.
- D. Pay interest on all amounts owed to Subcontractor that remain unpaid after seven days following receipt of payment by the agency, except for amounts withheld as allowed in 'C-2' above. "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month." A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amounts for reimbursement for the interest charge. Your obligation to pay interest to a Subcontractor shall not be construed to be an obligation of NNRHA.
 - E. Provide your social security number and if a proprietorship, partnership or corporation provide your federal employee identification number, space provided on cover sheet of this package.
 - F. Include in each of its subcontracts a provision requiring all Subcontractors to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Subcontractor.
 - G. Not purchase any materials or supplies pertaining to this contract that is subject to any chattel mortgage or under conditional sales or other agreement by which an interest is retained by the seller. The Contractor warrants that there is clear title to all materials and supplies for all items invoiced for payment. This clause also pertains to all Subcontractors participating in this contract.
 - H. Repair, to NNRHA satisfaction, any damage, including damage to finished surfaces, resulting from the performance of this contract.

43. **PROTECTION OF PERSON AND PROPERTY:**

- A. The Contractor expressly undertakes both directly and through its Subcontractors, to take every precaution at all times for the protection of persons and property, including NNRHA's employees and property. The Contractor shall make good any such damage injury or loss, except such as may be directly due to errors in the contract documents or caused by agents or employees of NNRHA. The Contractor shall adequately protect adjacent property as provided by law and the Contract documents, and shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority, local conditions, or any of the contract documents.
- B. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and in accordance with all State and Federal regulations.
- C. In an emergency affecting the safety of the work, life of individuals or the adjoining property, the Contractor shall act immediately without special instruction or authorization from NNRHA. Should the Contractor, in order to prevent threatened loss or injury, be instructed or authorized to act by NNRHA, they shall so act, without appeal. Any additional compensation or extension of time claimed by the Contractor on account of any emergency work shall be determined as provided in this document or negotiated between both parties.

44. **PROTECTION OF TRADE SECRETS AND OTHER INFORMATION:** By submitting data required by this solicitation, the Contractor may (A) clearly mark any portions, which in their option, are trade secrets or commercial or financial information and (B) submit such marked material separately from other material required to be submitted and is in accordance with Code of Virginia 3.1-249.68.

45. **PUBLIC NOTICE OF AWARDS:** Award or decision to award, utilizing competitive sealed bidding or competitive negotiations will be posted on a public bulletin board located at 227 27th Street and displayed at www.nnrha.com. Sole source and emergency procurements, not utilizing competitive sealed bidding or competitive negotiations, will also be posted.

46. **QUALIFICATIONS OF BIDDERS/OFFERORS:** NNRHA may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidders/offerors to perform the services, furnish the goods or services and the bidders/offerors shall furnish to NNRHA all such information and data for this purpose as may be requested. NNRHA reserves the right to inspect bidders/offerors physical facilities prior to award to satisfy questions regarding the bidders/offerors capabilities. NNRHA further reserves the right to reject any bid/offer if the evidence submitted by, or investigations of, such bidder/offeror fails to satisfy NNRHA that such bidder/offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or goods contemplated therein.
47. **SAFETY STANDARDS:** All personnel shall, at all times, wear approved clothing, hard hats, safety vest, and any other equipment required to meet OSHA standards. They will obey all safety rules and regulations and will not create hazardous conditions within the operation. The Contractor must meet motor carrier safety regulations (Federal and State), as applicable. It is the Contractor's responsibility to ensure the OSHA regulations are met in all applicable areas for all exposures encountered during the term of the contract.
48. **SUSPENSION OF WORK:**
- A. The Procurement Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Procurement Officer determines appropriate for the convenience of the NNRHA.
 - B. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Procurement Officer in the administration of this contract, or (2) by the Procurement Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.
 - C. A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Procurement Officer in writing of the act or failure to act (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.
49. **TAX EXEMPT:** NNRHA is exempt from the payment of any Virginia Sales Tax, State sales and use tax certificates of exemption. Form ST-12 will be issued upon request. When performance involves a service, the Contractor shall be responsible to pay a Virginia Sales Tax on materials consumed in performance of the service.
50. **TERMINATION FOR CONVENIENCE OF NNRHA:**
- A. NNRHA may terminate this contract at any time without cause, in whole or in part, upon giving the Contractor notice of such termination. Upon such termination, the Contractors shall immediately cease work and remove from the project site all of its labor forces and such of its materials as NNRHA elects not to purchase or to assume in the manner hereinafter provided. Upon such termination, the Contractor shall take such steps as required by owner to assign to the owner the Contractor's interest in all subcontracts and purchase orders designated by owner. After all such steps have been taken to owner's satisfaction; the Contractor shall receive as full compensation for termination and assignment of the following:

1. All amounts then otherwise due under the terms of the contract.
2. Amount due for work performed subsequent to the latest request for payment through the date of termination.
3. Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination. The Contractor shall not be entitled to any compensation for lost profits or for any other type of contractual compensation or damage other than those provided by the preceding sentence. Upon payment for the foregoing, owner shall have no further obligations to the Contractor of any nature.
4. All claims associated with this termination must be submitted within one (1) year after the effective date of the termination.

B. In no event shall termination for the convenience of the owner terminate the obligations of the Contractor's surety on its payment and performance bonds.

51. **TERMINATION FOR DEFAULT:** NNRHA may terminate this contract at any time, for the Contractor's failure to perform their contractual obligations and may procure the articles or services from other sources and hold the defaulting contractor responsible for any resulting costs. NNRHA is not liable for Contractor's cost on undelivered work and may be entitled to the repayment of progress payments. All claims associated with this termination must be submitted within one (1) year after the effective date of the termination.

52. **TESTING AND INSPECTION:** NNRHA reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications. Rejected supplies will be returned at the vendor's expense. The vendor, at no cost, shall replace materials and components that have been rejected by NNRHA.

53. **TRANSPORTATION AND PACKAGING:** By submitting their bids/offers, all bidders/offers certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

54. **USE OF PREMISES AND REMOVAL OF DEBRIS:**

A. The Contractor expressly undertakes, either directly or through its Subcontractor:

1. To perform this Contract in such a manner as not to interrupt or interfere with the operation of any existing activity on the premises or at the location of the work.
2. To maintain its apparatus, materials, supplies, and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of its work or the work of NNRHA or any other Contractor.
3. To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
4. To effect all cutting, filling or patching of its work required to make the same conform to the solicitations plans and specifications, and except with the consent of the Project Inspector, not to cut or otherwise alter

the work of any other Contractor. The Contractor shall not damage or endanger any portion of the work by cutting, patching or otherwise altering any work, or excavation.

5. To clean up frequently all refuse, rubbish, scrap materials and debris caused by its operation, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance.
6. The Contractor shall clean-up, move all refuse, rubbish surplus and scrap material and debris resulting from his operation at the end of each workday and after completion of all work. All material removed as part of clean up shall be completely removed from the properties.
7. NNRHA does not take responsibility for storing, securing or loss of the Contractor's apparatus, materials, supplies, equipment, or personal items.

55. WITHDRAWAL OF BID DUE TO ERROR:

- A. If a bid contains both clerical and judgment mistakes, a bidder may withdraw the bid from consideration if the price would have been substantially lower than the other bid due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. A bid may be withdrawn from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgement mistake and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can clearly be shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.
- B. The Contractor shall give notice in writing to Procurement Officer, Division of Purchasing, of their claim of right to withdraw their bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. The work papers, documents and materials may be considered as trade secrets or proprietary information subject to the conditions of subsection F of 2.2-4342. Section 2.2-4330 Code of Virginia.
- C. No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or another bidder in which the ownership of the withdrawing bidder is more than five percent.
- D. If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.
- E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- F. If NNRHA denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing within 5 business days stating the reason for its decision and award the contract to such bidder at the bid prices(s), provided such bidder is a responsive and responsible bidder. At the same time the notice is provided, NNRHA shall return all work papers and copies thereof that have been submitted by the bidder.

56. **WORK HOURS AND PROCEDURES:**

- A. Normal work hours for NNRHA are from 8:00a.m. to 5:00p.m., Monday through Friday, except holidays. All services shall be performed during normal work hours, unless prior approval from the COTR, or their designated personnel.
- B. Contractor(s) shall coordinate before commencing work the specific day(s) and the approximate times of day service will be conducted.
- C. Due to weather or any other delays, Contractor shall advise COTR of alternate date(s) of service and time immediately, prior to service.

CERTIFICATE OF NON-SEGREGATED FACILITIES

The bidder certifies that he/she does not maintain or provide for its employees any segregated facilities at any establishment, and that he/she does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder certifies further that he/she will not maintain or provide for its employees any segregated facilities at any of its establishments, and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of the bid. As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The bidder agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and will retain such certifications in its files.

Date: _____, 20_____

(Name of Bidder)

By: _____

Title: _____

Official Address:

NON-COLLUSIVE AFFIDAVIT

State of _____

County of _____

Being first duly sworn, deposes and says that:

(1) He/she is _____ of
(Owner, Partner, Officer, Representative or Agent)

_____, the Bidder that has submitted the attached bid;
(Name of Company)

(2) He is fully informed respecting the preparation and contents of the attached bid and all pertinent circumstances respecting such bid;

(3) Such bid is genuine and is not a collusive sham;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Newport News Redevelopment & Housing Authority or any person interested in the proposed contract; and

(5) The price or prices in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Name)

(Title)

Subscribed and Sworn before me

This ____ day of _____, 20 ____

My Commission Expires _____

STATEMENT OF QUALIFICATIONS

All questions must be answered and the data given must be clear and comprehensive. If necessary, questions may be answered on separate attached sheets. The Solicitor may submit any additional information they desire.

- 1) Name of Offerors

- 2) Permanent Main Office Address, including City, State, Zip Code, Phone Number, Fax Number and Email Address.

- 3) When organized?

- 4) If incorporated, when incorporated?

- 5) How many years have you been engaged in business under your present firm or trade name?
_____ Years

- 6) Contracts on hand.
(List these, showing gross amount of each contract and the appropriate anticipated dates of completion).

- 7) General character of work performed by your company.

8) Have you ever failed to complete any work awarded to you? If so, provide information for the reason not being able to complete the job.

9) Have you ever defaulted on a contract? If so, provide information regarding the contract and what led to the default?

REFERENCES: Provide at least four (4) recent references that you have provided this type of service for in the last five (5) years. Work performed for Newport News Redevelopment and Housing Authority is an acceptable reference. Include the date service was furnished and the name, address and phone number of the person the Authority has your permission to contact.

<u>Name of Company</u>	<u>Date of Service</u>	<u>Contact</u>	<u>Phone No.</u>
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1)

2)

3)

4)

Contractor's License Number: _____ Class _____

Number of employees employed with your firm that will be assigned to this contract. _____

SUBCONTRACTORS: Attach a list of all known sub-contractors who will be working on this project. Failure to submit this required information may cause your bid to be deemed non-responsive.

MINORITY BUSINESS PARTICIPATION COMMITMENT FORM

It is the policy of Newport News Redevelopment & Housing Authority (NNRHA) to encourage minority participation in all contracts. To implement this policy, we encourage minority participation through subcontracting or other methods in contracting. You must complete this form, indicating the percentage of this contract that will be subcontract to minority businesses. FAILURE TO COMPLETE THIS FORM MAY RESULT IN YOUR RESPONSE BEING DECLARED NON-RESPONSIVE THUS ELIMINATING YOUR FIRM FROM CONSIDERATION FOR THIS PROJECT.

For the purpose of this commitment, the term “minority business” means a business at least 50% of which is owned and controlled by minority group members or, in the case of a publicly-owned business, at least 51% of the stock is minority owned and the business is controlled by minority group members. For the purpose of the preceding sentence “minority group members” are citizens of the United States who are African-Americans, Hispanics, Asians, Pacific Islanders, and American Indians.

Please indicate the percentage of minority business participation in this project. This refers to the percentage of the total dollar value of the Contract that will be subcontracted to minority firms:

_____ %

NNRHA will consider minority participation in awarding the Contract. NNRHA reserve the right to approve or disapprove any subcontractors.

If you need assistance with identifying minority firms in this area, please contact Hampton Roads Community Action Program (HRCAP), at (757) 247-6747 or the Virginia Department of Minority Business Enterprise at 111 East Main Street, Suite 300, Richmond, VA 23219 at (804) 786-6585.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the prospective Bidder to the commitment herein set forth.

Contractor’s Name

Name of Authorized Officer (printed)

Date

Name of Authorized Officer (signed)

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

**Certifications and
Representations
of Offerors
Non-Construction Contract**

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

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

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

4. Organizational Conflicts of Interest Certification

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

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

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour 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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

- 1) Non-construction contracts (*without* maintenance) greater than \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – use Sections I and II.

Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
 - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the industry; and
 - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

in the classification under this Contract from the first day on which work is performed in the classification.

2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
 - (i) Name, address and Social Security Number;
 - (ii) Correct work classification or classifications;
 - (iii) Hourly rate or rates of monetary wages paid;
 - (iv) Rate or rates of any fringe benefits provided;
 - (v) Number of daily and weekly hours worked;
 - (vi) Gross wages earned;
 - (vii) Any deductions made; and
 - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
 - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

- Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice; A
- (ii) trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
 - (iii) A training/trainee program that has received prior approval by HUD.
- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
- (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
- (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
- (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
- (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

- (ii) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

6. Contract Work Hours and Safety Standards Act

The provisions of this paragraph 6 are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" includes watchmen and guards.

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to the District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

- (c) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the U.S. Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Contract or any federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

7. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this Section II and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the provisions contained in these clauses.

8. Non-Federal Prevailing Wage Rates

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under state law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.