



3595 South Main Street  
Salt Lake City, Utah 84115

## SUNSET GARDENS



# **REQUEST FOR PROPOSAL RFP# HC2020-13**

## **OWNER REPRESENTATION SERVICES**

**PREPARED BY:**

**Emily Whittle  
Purchasing Agent**

**Issued  
January 7, 2021**

## INTRODUCTION

Housing Opportunities Inc. (HOI) and the Housing Authority of the County of Salt Lake (doing business as Housing Connect) are seeking bids for Owner Representation services for a demolition and new construction project for Housing Connect's Sunset Garden's property located at 380 East 7200 South, Midvale City, Utah. Sunset Gardens is currently 24 units of public housing owned and operated by Housing Connect (HC). The property's 24 units have exceeded their functional life and 89 units of Low-Income Housing Tax Credits will be constructed in their place. The project received an allocation of 2020 9% tax credits.

Sunset Gardens sits on 3.91 acres of land, and the new property is designed as a single three-story building comprised of 1-, 2- and 3-bedroom units.

## PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit responses from qualified contractors to provide construction management services for the Sunset Gardens redevelopment.

## CONTACT INFORMATION

The contract term will be the course of construction but is anticipated to be 24 months. Questions regarding the contents of this RFP must be submitted in writing through email on or before January 20, 2021, 12:00 PM MST and directed to the Purchasing Agent/Finance listed below. All answers will be emailed to the proposers.

Emily Whittle, Purchasing Agent/Finance  
3595 South Main Street  
Salt Lake City, Utah 84115  
(801) 248.4446  
[ewhittle@housingconnect.org](mailto:ewhittle@housingconnect.org)

## PROPOSAL TIMELINE

Release of RFP	1/7/2020
Questions Due	1/20/2021 @ 12PM MST
Answers to Questions	1/25/2021 @ 12PM MST
Proposals Due	1/31/2021 @ 12PM MST
Evaluation Process	2/1/2021 to 2/12/2021
Award of Contract	TBD

## CONTRACT TERM

The contract term will include pre-construction and construction phases and is anticipated to be 24 months.

## PROPOSAL CONDITIONS

### A. Authorized Signatures

All proposals must be signed by an individual authorized to bind the Proposer to the provisions of the RFP.

**B. Term of Offer**

Proposals shall remain open, valid, and subject to acceptance anytime within nine (9) months after the proposal opening.

**C. Required Review**

Proposers should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and objectionable material must be made in writing and received by the Purchasing Agent/Finance listed in the "CONTACT INFORMATION" section at least ten days before the proposal due date. This will allow issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of proposals upon which award could not be made. Protests based on any omission or error, in the content of this RFP, may be disallowed if not brought to the written attention of the Purchasing Agent/Finance listed in the "CONTACT INFORMATION" section, at least five days before the Deadline for Proposals.

**D. Incurred Costs**

HC is not obligated to pay any costs incurred by the Proposer in the preparation of a proposal in response to this RFP. Proposers agree that all costs incurred in developing a proposal are the Proposer's responsibility.

**E. Amendments/Addenda to RFP**

HC reserves the right to issue addenda or amendments to this RFP if HC considers that changes are necessary or additional information is needed.

Changes to a proposal or withdrawal of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline.

**SELECTION CRITERIA FOR PROFESSIONAL SERVICES**

**A. Past Performance/References**

30 Points. The rating will be based first on how well the Owner Representative did on past projects

**B. Experience/Capacity**

40 Points. Based on the statements of qualifications and the management plan, the selection team shall evaluate the expertise and experience of the team and the project lead as it relates to this project in size, complexity, quality, duration, etc. The teams shall demonstrate past success with challenging work in similar projects.

**C. Proposed Cost**

30 Points. This criterion considers the Proposer's proposed cost and the benefit to Housing Connect financially. Please break costs out by each phase.

**D. Communication with owner**

10 Points. Information on frequency and type of communication with owner

**E. Section 3**

10 Points. Demonstrate how your firm will meet the requirements of Section 3 as outlined in Attachment F

## **RIGHT OF REJECTION**

Offers must comply with all of the terms of the RFP, and all applicable local, state, and federal laws, codes, and regulations. HC may reject as non-responsive any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Proposers may not qualify the proposal nor restrict the rights of HC. If the Proposer does so, the proposal may be determined to be a non-responsive counter-offer and the proposal may be rejected.

No proposal shall be rejected, however, if it contains a minor irregularity, defect, or variation, and if the irregularity, defect, or variation is considered by HC to be immaterial or inconsequential, HC may choose to accept the proposal.

Minor informalities may be waived by the Chief Finance Officer (CFO) when they:

- A.** Do not effect responsiveness;
- B.** Are merely a matter of form or format;
- C.** Do not change the relative standing or otherwise prejudice other offers;
- D.** Do not change the meaning or scope of the RFP;
- E.** Are trivial, negligible, or immaterial in nature;
- F.** Do not reflect a material change in the work; or
- G.** Do not constitute a substantial reservation against a requirement or provision.

In such cases, the Proposer will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect, or variation, or HC may elect to waive the deficiency and accept the proposal.

This RFP does not commit HC to award a contract. HC reserves the right to reject any or all proposals, if it is in the best interest of HC to do so. HC also reserves the right to terminate this RFP process at any time.

## **PUBLIC RECORDS ACT**

All information submitted in the Proposal or in response to request for additional information is subject to disclosure under the provisions of the Utah Public Records Act (Utah Government Code Chapter 2 Government Records Access and Management Act). Proposals may contain financial or other data that constitutes a trade secret. To protect such data from disclosure, Proposers should specifically identify the pages that contain confidential information by properly marking the applicable pages.

HC assumes no responsibility for disclosure or use of unmarked data for any purpose. HC will exercise care in applying this confidentiality standard but will not be held liable for any damage or injury which may result from any disclosure that may occur

## **DEBARMENT AND SUSPENSION**

The Proposer certifies (using written documentation) that neither it nor its principals or subcontracts is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.

Further, the Proposer affirms that it has no record of unsatisfactory performance with HC in the twenty-four (24) month period immediately preceding the date of issuance of this RFP.

## **FINAL AUTHORITY TO AWARD**

The final authority to award contracts as a result of this RFP rests solely with HC Chief Executive Officer or authorized staff.

## **SCOPE OF PROPOSAL/TECHNICAL SPECIFICATIONS**

Housing Connect is seeking proposals from qualified, insured, and licensed firms to provide the following detailed services:

### **INTRODUCTION**

Housing Connect is seeking written proposals from qualified Owner Representation firms for the construction management of Sunset Gardens, an 89-unit tax-credit/100% with 24 Project-Based Section 8 units located at 380 East 7200 South, Midvale City, Utah ("Sunset Gardens").

Proposals are requested from consultants with direct demonstrated expertise in constructing/rehabbing family housing, particularly developments with a mix of public and private financing, including Low Income Housing Tax Credits (LIHTC). Housing Connect's selection process will result in awarding a contract to a qualified Owner Representative. The selected Owner Representative will report directly to the CEO and/or designee.

### **SCOPE OF WORK**

The selected Owner Representative shall provide construction services. The construction work involves site and building upgrades and will be contracted by Owner and/or Housing Connect.

### **ORIENTATION/PLANNING**

The Owner Representative shall:

- A. Review overall project scope including schedule, budget and phasing;
- B. Prepare with owner, as required, a detailed action plan of upcoming events, timelines, and key individuals and roles;
- C. Review and consult on project budget, scope, schedule, and proforma;
- D. Review consulting agreements and proposals as required. Make recommendations for revisions as necessary. This includes, but is not limited to, the Architect, Civil Engineer, Environment Consultant, and/or Geotechnical Consultants
  - 1. Recommend any additional consultants or staffing necessary for project progress;
- E. Report to meetings and site visits. provide reports and respond to correspondence as required.

### **DESIGN**

- A. Review, with the Architect and/or Owner, a detailed drawing completion and submittal schedule. Monitor the completion of the architectural design. Oversee coordination of the design plan with the stated budget;
- B. Assist in the general contracting solicitation and award process. Set contracting format (custom or AIA modified) and key business points. Assist and consult on selection of specialty subcontractors/consultants;
- C. Assist in awarding and concluding General Contractor (GC) contracts and specialty contractor(s) contracts. Review drawings and budgets. Review and provide recommendations on value engineering, as necessary;
- D. Review working drawings at 65%. Complete a review of documents by the entire project team;
- E. Review 100% drawings and bid packages. Assist and consult with the selection of subcontractors and the finalization of the Contract Price and the time to substantial completion;
- F. Monitor the permit process in conjunction with the Owner/Architect/Contractor;
- G. Finalize project budgets and the schedule and any lender requirements with the project team. Conclude the review and acceptance of all GC and specialty contractor contract documents. Review and approve the Schedule of Values from the GC.

## **CONSTRUCTION PHASE**

- A.** Provide base building construction and site construction monitoring to help assure the timely completion of work by the Consultants and the General Contractor. This includes the review/processing of all draw requests, invoices, correspondence, clarifications, Owner changes, reports, meetings and coordination with staff, and other related activities;
- B.** Schedule and attend on-site meetings for purposes of schedule compliance, quality control, and changes in the Scope of Work. This includes weekly job progress meetings as necessary;
- C.** Schedule and attend monthly draw meetings as necessary with the Client, Contractor and Architect. Approve and process the draw request with the Owner;
- D.** Process and recommend to the Owner the disposition of Owner-related changes in the work and/or other construction changes or claims;
- E.** Monitor and make recommendations regarding activities with public agencies for permits, access, utilities, certificates of occupancy, etc.;
- F.** Provide Substantial Completion review. Monitor project closeout including As-Builts, O&M Manuals, Warranty Books, and their delivery to the Owner;
- G.** Perform a Cost Audit of the General Contractor. Provide notification of any savings reverting to the Owner/Contractor and any other penalties/bonus associated with the provisions of the Contract. Verify that the Contractor's records are in good order.

## **TURNOVER**

- A.** Assure a smooth transition to the property management operations.

## **ANTICIPATED DEVELOPMENT SCHEDULE**

The General Contractor will be selected in February 2021 and placed in service has a firm date of December 31, 2022.

## **PROPOSAL SUBMISSION REQUIREMENTS**

### **A. General**

- 1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands the entire RFP, and all concerns regarding the RFP have been satisfied.
- 2. Proposals must be received by the designated date and time. Late or incomplete proposals will not be accepted.
- 3. Submit proposals electronically to the Purchasing Agent/Finance specified in the "CONTACT INFORMATION" section.
- 4. Proposals must be completed in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.

## **INFORMATION REQUESTED OF PROPOSERS**

- A.** Past Experience/References;
- B.** Provide HC with examples of similar projects that have been completed in the last five years;
- C.** Capacity;
- D.** The Proposer will demonstrate the ability to oversee construction projects within budget and on time;
- E.** Complete breakdown of the Scope of Work including price and costs for each phase of the scope of work (orientation, design, construction close-out and transition to operations);
- F.** Provide a detailed Schedule of Anticipated Fees and estimate the cost of completing the project;

- G.** Miscellaneous Discussion Questions;
- H.** Identify the specific individuals who would be assigned to work with HC and specify which person would be the primary contact person with HC. Please include his/her level of expertise in the languages or services and certifications held by staff.
- I.** Affirmative Action;
- J.** HC requires each respondent be an Equal Opportunity Employer;
- K.** State that the respondent complies fully with all government regulations regarding nondiscriminatory employment practices;
- L.** Demonstrate past success with challenging work in similar projects.

## **QUALIFICATIONS**

Proposals shall be considered from responsible organizations or individuals engaged in construction of affordable housing, specifically including experience with Low-Income Housing Tax Credits and with non-profit organizations.

- A.** Brief history of experience;
- B.** A listing of three (3) references where similar services were performed in the last 60 months. The reference shall include the name of the organization, contact person, address, and telephone numbers;
- C.** The Vendor shall describe their understanding of the project scope, their proposed approach to performing the services, and submit a proposed schedule. Vendors shall include information on past experience with similar projects. Vendors shall describe how their organization can meet the requirements of this RFP and shall include the following:
  - 1. The number of years the Vendor has provided these services;
  - 2. The number of clients and geographic locations that the Vendor currently works with;
  - 3. The names and titles of the key management personnel directly involved with supervising the services rendered under this Contract along with their resumes;
  - 4. The name and resume of the Vendor's Contractor Representative who, if the Vendor is selected for award, would be responsible for the daily oversight of the Contract from the Contractor's perspective.

## **SUBMISSION REQUIREMENTS**

Forms included within this Request for Proposal must be included with the proposal, in addition to HUD form 5369-B and 5369-C. Failure to submit mandatory forms may result in rejection of the proposal.

## **COLLUSION**

The Proposer, by submitting a proposal, hereby certifies that no officer, agent, or employee of HC has a pecuniary interest in this Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind with any other proposer; and that the proposer is competing solely in its own behalf without connection with or obligation to any undisclosed person or company.

## **INSURANCE REQUIREMENTS**

- A. Insurance:** Proof on insurance is required. Insurance shall not be terminated or expire without thirty (30) days written notice and is required to be maintained in force until completion of the contract. The Contractor shall require all subcontractors used in the performance of this contract to name HC as an additional insured. The following are the standard types and minimum amounts:

**Commercial General Liability:** \$1,000,000; per occurrence for bodily injury, personal injury, and property damage liability; Housing Connect Additional Insured or,

**Comprehensive Automobile Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and aggregate; Housing Connect Additional Insured.

**Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,

**Professional Liability:** \$1,000,000; per occurrence and aggregate.

**Workers' Compensation:** statutory limits

- B. Failure to provide proof of insurance or failure to maintain insurance as required in this bid or by law are grounds for immediate termination of the contract. In addition, the awarded bidder should be liable for all re-procurement costs and any other remedies under law.

## **INDEMNIFICATION AND INSURANCE REQUIREMENTS:**

### **INDEMNIFICATION**

The Contractor agrees to indemnify, defend, and hold harmless HC and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by HC on account of any claim therefore, except where such indemnification is prohibited by law.

### **ADDITIONAL NAMED INSURED**

All policies, except for the Workers' Compensation, Errors and Omissions, and Professional Liability policies, shall contain additional endorsements naming HC and its officers, employees, agents, and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

### **WAIVER OF SUBROGATION RIGHTS**

The Contractor shall require the carriers of the above required coverages to waive all rights of subrogation against HC, its officers, employees, agents, volunteers, Contractors, and subcontractors.

### **POLICIES PRIMARY AND NON-CONTRIBUTORY**

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by HC.

### **PROOF OF COVERAGE**

The Contractor shall immediately furnish certificates of insurance to HC Procurement Department administering the Contract, evidencing the insurance coverage, including the endorsements above required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. The Contractor shall maintain such insurance from the time the Contractor commences the performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Contractor shall furnish certified copies of the policies and all endorsements.

### **INSURANCE REVIEW**

The above insurance requirements are subject to periodic review by HC. HC's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the



Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of HC. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against HC, inflation, or any other item reasonably related to HC's risk. Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. The Contractor agrees to execute any such amendment within thirty (30) days of receipt.

#### **CONTRACT CONDITIONS:**

##### **AMERICANS WITH DISABILITIES ACT**

The Proposer must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes.

##### **LAW OF THE STATE OF UTAH**

The resulting contract will be entered into within the State of Utah, and the law of said state, whether substantive or procedural, shall apply to the contract, and all statutory, charter, and ordinance provisions that are applicable to public contracts within the County of Salt Lake and the State of Utah shall be followed with respect to the contract.

##### **CONTRACT TERMS AND FINAL SELECTION**

The selected company will be expected to sign HC's Contract Agreement, which will specify the terms of service. If the selected applicant and HC cannot come to terms with respect to the contract, HC reserves the right to select the next most qualified applicant or to terminate this RFP and to re-issue a new RFP if no Proposer is acceptable to the HC.

## **ATTACHMENTS**

EXHIBIT A	CONTACT INFORMATION FORM
EXHIBIT B	CLIENT REFERENCE
EXHIBIT C	CERTIFICATION REGARDING DEBARMENT OR SUSPENSION
EXHIBIT D	HUD FORM 5369 B (INSTRUCTIONS TO OFFERORS-NON CONSTRUCTION)
EXHIBIT E	HUD FORM 5369 C (CERTIFICATIONS AND REPRESENTATIONS OF OFFERS)
EXHIBIT F	SECTION 3 CLAUSE AND SECTION 3 STATEMENT HUD 24 CFR PART 135

## EXHIBIT A – CONTACT INFORMATION FORM

To: Emily Whittle, Purchasing Agent  
Phone: (801) 284.4446 or  
Email: [ewhittle@housingconnect.com](mailto:ewhittle@housingconnect.com)

This fax is to acknowledge that we are in receipt of RFP # HC2020-13 Owner Representation Services and have noted our intention to bid.

Vendor Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### I PLAN TO SUBMIT A BID.

- ☐ Yes, I will be submitting a bid.  
☐ Maybe, I need to research and get more information (contact HC-information listed above)

### NO BID. Indicate *any* of the following. We:

- ☐ Do NOT desire to be retained on the vendor list.  
☐ Desire to be retained on the vendor list, but decline to bid based on the following:  
☐ Cannot comply with specifications/scope of work, Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Cannot meet delivery requirements, Explain: \_\_\_\_\_  
\_\_\_\_\_  
☐ Do not regularly provide this type of product/service  
☐ Other, Explain: \_\_\_\_\_  
☐ Please update my information as listed above.

### HOW YOU FOUND OUT ABOUT THE BID. Indicate *any* of the following. We:

- ☐ Checked the agency website  
☐ Received notice by fax or e-mail  
☐ Newspaper Ad, please list paper: \_\_\_\_\_  
☐ Trade Publication, please list: \_\_\_\_\_  
☐ Plan Room, please list: \_\_\_\_\_  
☐ Other, Explain: \_\_\_\_\_

## EXHIBIT B- CLIENT REFERENCE

### CURRENT CLIENT REFERENCES (REQUIRED) – RFP#HC2020-13– OWNER REPRESENTATION SERVICES

*Submit this form with the BID, failure to do so is grounds for disqualification.*

Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____
Company	_____
Address	_____
City, ST, Zip	_____
Fax/Phone/Email	_____
Contact Name/Title	_____
Type of Engagement	_____

Bidder's Company Name	_____
Legal Structure (corp./partner/proprietor)	_____
Principle Office Address	_____
City, ST, Zip	_____
Phone Number & Fax Numbers	_____
Email	_____
Federal Employer Identification Number	_____
Title of Person Authorized to Sign	_____
Print Name of Person Authorized to Sign	_____
Date Signed and Authorized Signature	_____

## **EXHIBIT C - CERTIFICATION REGARDING DEBARMENT OR SUSPENSION**

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all Proposers submitting a response to this RFP:

1. The Proposer certifies, to the best of its knowledge and belief, that neither the Proposer nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or non-procurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Non-procurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Proposer shall provide immediate written notice to the HC Chief Finance Officer (CFO) and Contracts if, at any time prior to award, the Proposer learns that this certification was erroneous when submitted or has become erroneous by reason of changes circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Proposer rendered an erroneous certification, in addition to other remedies available to the HC government, the HC Chief Finance Officer (CFO) Contracts may terminate the contract resulting from this solicitation for default.
5. Proposer affirms that it has no record of recent unsatisfactory performance with HC, during the past twenty-four (24) months at a minimum.

**Printed Name of  
Representative:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Signature:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

**EXHIBIT D – HUD FORM 5369 B (INSTRUCTIONS TO OFFERORS – NON-CONSTRUCTION)**

**Document on following page**

# 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:]



## **EXHIBIT E – HUD FORM 5369 C (CERTIFICATIONS AND REPRESENTATIONS OF OFFERORS)**

**Document on following page**

# Certifications and Representations of Offerors Non-Construction Contract

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

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

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

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

## 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

## 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

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

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

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

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

#### **4. Organizational Conflicts of Interest Certification**

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

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

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

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

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

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

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

#### **6. Conflict of Interest**

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

#### **7. Offeror's Signature**

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

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Signature & Date:

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Typed or Printed Name:

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Title:

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**EXHIBIT F – SECTION 3 CLAUSE AND SECTION 3 STATEMENT (HUD 24 CFR PART 135)**

**Document on following page**



**SECTION 3 CLAUSE  
AND SECTION 3 STATEMENT  
HUD 24 CFR PART 135**

- A.** The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, [12 U.S.C. 1701u](#) (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B.** The parties to this contract agree to comply with HUD's regulations in [24 CFR part 135](#), which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C.** The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D.** The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in [24 CFR part 135](#), and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in [24 CFR part 135](#). The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in [24 CFR part 135](#).
- E.** The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of [24 CFR part 135](#) require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under [24 CFR part 135](#).
- F.** Noncompliance with HUD's regulations in [24 CFR part 135](#) may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G.** With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 450e](#)) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**SECTION 3 STATEMENT**

Are you claiming Section 3 business preference? **Yes** ☐ **No** ☐

If "YES," check the box indicating which priority you are claiming and attach supporting documentation.

☐ 51% or more owned by Section 3 residents

☐ At least 30% of permanent, full time employees include persons that are currently Section 3 Residents, or were Section 3 residents within three (3) years of the date of first hire

☐ Provide evidence, as required, of a commitment to sub-contract in excess of 25% of the dollar award of all sub-contracts to business concerns that meet one of the first two qualifications above.

More information regarding Section 3 may be obtained from:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3](https://www.hud.gov/program_offices/fair_housing_equal_opp/section3/section3)