
REQUEST FOR QUALIFICATIONS (RFQ) CO-DEVELOPER PARTNERS FOR NEW CONSTRUCTION IN NEW BERN, NC RFQ# 2022-07

New Bern Housing Authority (NBHA)



Serving

The City of New Bern, NC

1307 Tatum Drive
New Bern NC 28560
www.newbernha.org

Available: Monday, July 25, 2022

Deadline: 3:00 PM EST on Thursday, September 8, 2022



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**Request for Qualifications
Co-Developer Partners for
New Construction in New Bern, NC
RFQ# 2022-07**

The New Bern Housing Authority, NC (NBHA) is requesting qualification submissions from experienced developers to act as Co-Developer(s) to provide the necessary expertise to develop housing in the City of New Bern, NC and Craven County. Successful respondents must demonstrate the ability and experience to implement a mixed-income methodology resulting in a viable mixed income residential community containing affordable housing, which may include elderly and family units.

In keeping with the NBHA's current development plan, the NBHA is considering new construction as the method to provide replacement housing related to the Trent Court development.

Sealed responses to this solicitation will be received by NBHA in the Procurement Office until **3:00 p.m. EST on Thursday, September 8, 2022.**

Deliver four complete sets (one original clearly marked or stamped "original", and three copies) of the required submittals, plus an electronic version on Flash drive of the required submittals in a sealed container or box clearly marked with the words "Co-Developer RFQ Documents", to the Procurement & Contract Specialist at the following address:

The New Bern Housing Authority, North Carolina
1307 Tatum Drive
New Bern, NC 28560

Place the following information in the upper, left-hand corner on the outside of the container/box when submitting qualifications:

Company Name
Company Address
RFQ Name and Number
Date and Time responses are due

The RFQ solicitation may be obtained by visiting the NBHA website:

<https://www.newbernha.org>

A pre-submission conference (non-mandatory) will be held at New Bern Housing Authority on **Monday, August 15, 2022, at 11:30 am EST.**

All responses submitted are subject to the HUD Instructions and Supplemental Instructions to Offerors, General and Supplemental Conditions, and all other HUD requirements, all of which are made a part of this Request for Qualifications by reference.

The New Bern Housing Authority, NC reserves the right to reject any or all submissions and to waive any informality in the submission process.

**Tiffany Askew, Executive Director
New Bern Housing Authority
1307 Tatum Dr., New Bern, NC 28560**

SCHEDULE OF SUBMITTALS**RESPONSES DUE: Thursday, September 8, 2022, at 3:00 PM, Eastern Standard Time**

Submission of Qualifications: Deliver four complete "hard copy" sets (one original clearly marked or stamped "original," and three copies) plus an electronic version on Flash drive of the required submittals, in a sealed envelope or box clearly marked with the words " Co-Developer RFQ Documents", to the Department of Procurement, at the following address:

The New Bern Housing Authority, NC

1307 Tatum Drive

New Bern, NC 28560

Interpretations/Questions: During the period between issuance of this RFQ and the due date, no oral interpretation of the RFQ requirements will be given to any prospective offeror. Requests for interpretation must be made, by e- mail, at least **10 days before the submission due date and time**, to the address provided below:

Dee Meadows, Procurement Officer, dmeadows@newbernha.org

Addendum and Update Procedures for the RFQ: During the period of advertisement for this RFQ, the NBHA may wish to amend, add to, or delete from, the contents of this RFQ. In such situations, the NBHA will issue an addendum to the RFQ setting forth the nature of the modification(s). The NBHA will electronically send via email the addendum to all entities providing receiving a copy of this RFQ directly from the NBHA. Respondents are solely responsible for a correct email address to NBHA to receive addendums, if any.

Submission Format: All qualifications shall be submitted in 8 1/2 x 11-inch format, preferably in 3 ring binders. Larger size pages or inserts may be used provided they fold to 8 1/2 x 11-inches. All copies of the submittal must be identical in content and organization. Consideration should be given to the form and format of the submittal to facilitate internal duplication of the submittal. Submissions shall be organized into sections and tabbed for ease of review. Provide a Comprehensive Table of Contents at the front of the submission. Organize the qualifications in response to the Submission Requirements, taking care to address all issues identified in the Scope of Services. The front cover of the submission shall bear the name and number of the RFQ, the date, and the respondent's name, address, phone, and fax number.

Cover Letter with Company Name; A brief letter explaining the understanding of the scope of work and any available history of the company detailing any successful past Initial performances.

- ✓ **Tab 1.** Letter of Interest
- ✓ **Tab 2.** Team Description & Profile
- ✓ **Tab 3.** Team Experience
- ✓ **Tab 4.** Staff Experience
- ✓ **Tab 5.** Methodology
- ✓ **Tab 6.** Financial Capacity
- ✓ **Tab 7.** DBE/MBE/WBE/Section 3 Participation Plan
- ✓ **Tab 8.** Required Forms and Certifications (to be completed and/or signed)

Initial

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Attachment 1 – Required Forms

- ☐ Form HUD-2992: Certification Regarding Debarment and Suspension
- ☐ Form HUD-50071: Certification of Payments to Influence Federal Transaction
- ☐ Form HUD-5369-A: Representations, Certifications & Other Statements of Bidders.
- ☐ Form HUD-5370: General Contract Conditions for Construction Contracts
- ☐ Acknowledgement of Addendum
- ☐ Non-Conclusive Affidavit
- ☐ Form W-9
- ☐ Submittal Statement

This Schedule of Submittals is provided to assist you in responding to this RFQ but is not intended to waive or modify any provision of the solicitation.

Submittal Forms: Provide, as a part of the submission, all required certifications listed on page 4. Each form that requires signatures must bear an original signature with BLUE INK.

Acceptance of Qualifications: Qualifications submissions must be signed, sealed, and received in completed form at the Procurement Department, The New Bern Housing Authority, NC, 1307 Tatum Drive, New Bern, NC 28560, no later than the qualifications submission time and date. Unsealed submissions will not be accepted. Qualifications submitted after the designated date and hour will not be accepted for any reason and will be returned unopened to the originator.

The NBHA reserves the right to accept or reject any or all submissions, to take exception to these RFQ specifications or to waive any formalities. Respondent may be excluded from further consideration for failure to fully comply with the specifications of this RFQ.

Time for Reviewing Submissions: Submissions received prior to the due date and time will be securely kept, unopened. No submission received after the submission due date will be considered. Submissions will not be publicly opened. Submissions once submitted become the property of the NBHA.

Withdrawal of Submissions: Submissions may be withdrawn by written request by the Respondent provided that written confirmation of withdrawal is placed in the mail and postmarked prior to the time set for submission opening. Negligence on the part of the Respondent in preparing its submission confers no right of withdrawal or modification of its submission after the due date.

Award of Contract: NBHA expects to award contracts to the highest-ranked respondents determined to be in the best interest of the NBHA considering all evaluation criteria. The Respondents to whom an award is made will be notified at the earliest practical date. An award may be subject to HUD approval. No award may be made to developers or firms that are on any federal, state or local debarment list. NBHA reserves the right to not award contracts if Respondents are not deemed qualified/responsive to the RFQ requirements.

Certification of Legal Entity: Prior to execution of the contract agreements, the respondents shall certify that joint ventures, partnerships, team agreements, new corporations, or other entities that either exist or will be formally structured are or will be legal and binding under law of the State of North Carolina. No contractual rights shall arise from the prices of Inflation until such time as the NBHA, and the selected development partner have signed an agreement. Work under the agreement shall commence immediately upon execution of such agreement. Parties further concur that the NBHA must approve the agreement and both parties to work together to implement changes as required.

Costs Borne by Respondent: All costs related to the preparation of this RFQ, and related activities are the respondent's responsibility. NBHA assumes no liability for costs incurred throughout the selection process.

Best Available Data: All information contained in this RFQ is the best data available at the time. The RFQ information is not intended as representations having binding legal effect. This information is furnished for respondent convenience and the NBHA assumes no liability for any errors or omissions.

Contact with Staff, Board Members, and Residents: Offerors may not make any contact with NBHA Staff, NBHA Board Members, or Residents regarding this RFQ or any related matter. All communications with NBHA shall be in writing as provided in HUD Form 5369-B, Instructions to Offerors Non-Construction, Paragraph 4 to the Procurement Specialist via Email address for Dee Meadows, Procurement Officer. (dmeadows@newbernha.org)

Respondent Responsibilities: Each respondent is presumed by NBHA to have thoroughly studied this RFQ and become familiar with the package's contents, the location, nature, etc. of the site covered by the RFQ package. Any failure to understand completely any aspect of this RFQ or the proposed site is the responsibility of the respondent.

SECTION 1: INTRODUCTION

- 11 Introduction/Background Information.** The New Bern Housing Authority (NBHA) is interested in the review and selection of firms interested in serving as Co-Developer Partners to NBHA and requests the submission of qualifications for consideration. The NBHA is a public housing authority (PHA) created pursuant to North Carolina Statutes.

The following represents NBHA's current housing portfolio:

| Site Location | Construction Year | 1-Bdr | 2-Bdr | 3-Bdr | 4-Bdr | Total Units |
|---------------|-------------------|-------|-------|-------|-------|-------------|
| Trent Court | 1954 | 36 | 122 | 48 | 12 | 218 |

NBHA desires to develop a mixed income community with additional housing opportunities that include low and moderate-income residents in New Bern, Craven County located in Eastern North Carolina. It will leverage access to land and FEMA funding as well as proximity to healthcare, jobs and other services and amenities in the New Bern area of Craven County in a public/private partnership with qualified Co- Developers.

NBHA will consider utilizing multiple debt and equity instruments including tax exempt bonds, HUD Choice Neighborhoods Initiative (CNI), low-income housing tax credits, conventional mortgage financing, limited partnerships, FEMA Funds, HOME funds, CDBG disaster recovery funds, and public/private collaborations as its principal forms of financing to develop additional affordable housing and potentially address other income ranges up to 80% of the Area Median Income. **A major role of the selected Co-Developers will be to identify adequate development funds from available sources and to provide guarantees during the development period.**

NBHA wishes to encourage high quality architectural design for all work which will revitalize the area. The developments will provide amenities commensurate with market rate properties in accordance with state and local ordinances and any requirements of applicable funding applications. These amenities may include a clubhouse with leasing office, "well-care" center, business center, etc.

NBHA seeks to incorporate Green Building techniques, increase community safety through environmental design, with ample green space and parking in the design.

NBHA has previous development experience, well established relationships with local governments, and a good relationship with local officials.

- 12 Method of Solicitation:**

NBHA is soliciting qualification statements from firms with a documented track record of developing low and moderate-income housing, including senior communities in partnership with housing authorities and HUD; experience developing and financing affordable housing in the State

of North Carolina will also be an evaluation criterion. The submission shall demonstrate the respondent's capacity and readiness to perform the necessary tasks expeditiously. The NBHA is also interested in acquiring and developing additional properties within the New Bern City limits. Finally, the submission shall include evidence of the respondent's previous experience and qualifications relative to the provision of necessary services to include working with Choice Neighborhoods Initiative implementation strategies.

SECTION 2: SCOPE OF SERVICES

The selected Co-Developer Partners will act in a full-service capacity, advising the NBHA on the development of appointed site(s). This will include programs of work involving the development of affordable housing assets designed to provide long lasting affordability at these sites and other product mixes that would produce the optimal financial return from development and operations to sustain the affordability and capital improvements of low or moderate-income housing in perpetuity.

2.1 Role of the NBHA

NBHA will play the following roles in the planning and development of the Project:

- **HUD Contact** - NBHA will manage and take responsibility for all communication with HUD, and the submission of program documents and evidentiary to obtain all HUD approvals including but not limited to Section 18 Demo/Dispo and/or RAD/Section 18 Blend and mixed-income approval. To the extent any such documents or evidentiary are within the knowledge or responsibility of the Co-Developer Partners, NBHA will expect the Co-Developer Partners to prepare such documents and evidentiary as NBHA may direct.
- **Provider of Funding for Leverage Purposes** - NBHA may grant, loan, or otherwise make available to the Co-Developer Partners funds for the development of the affordable units to assist in the leveraging of funds for the overall revitalization effort. The Co-Developer Partners will be required to leverage NBHA funds by securing private and other public funding and to secure all funding for non-public housing units, as well as any supportive services deemed appropriate by NBHA.
- **Provider of Operating Subsidies** - NBHA will coordinate the Project Based Vouchers with Twin Rivers Opportunities. NBHA will not provide to the Co-Developer Partners any amount larger than what it receives from HUD less an amount it will retain for its monitoring and asset management functions. In compliance with federal regulations, Section 8 Project Based Vouchers may be available.
- **Landowner** - It is NBHA's intent to enter into a long-term ground lease on the development site, or portion thereof, with the Owner Entity of each development phase. NBHA expects to receive annual ground lease payment for each development site.
- **Relocation** - NBHA will be responsible for any necessary relocation of residents during the development project(s).

- **Disposition** - NBHA will assume primary responsibility for the disposition of the site as necessary to phase specific owner entities.
- **Asset Manager** - NBHA will continue to have asset management responsibilities related to the developed under the redevelopment project(s). NBHA will monitor and enforce the terms of its Lease and the Regulatory and Operating Agreement with the Co- Developer Partners and require that all housing units be managed in accordance with applicable local, state and federal requirements. NBHA will develop an asset management division to manage the property after a 2-year transition period from Stabilized Occupancy.
- **Monitor Co-Developer Partners Compliance with Section 3** - NBHA will monitor the Co-Developer Partners' plans and efforts for reaching Section 3 goals and objectives. Section 3 requirements include not only resident employment but also contracting with Section 3 business entities.
- **Monitor Co-Developer Partners Compliance DBE/MBE/WBE Contracting Goals** - NBHA will monitor the Co-Developer Partners' plans and efforts for reaching eligible Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) goals and objectives. The Co-Developer Partners' strategy must be coordinated and integrated with NBHA's Compliance Department throughout the development process.

2.2 Responsibilities of the Co-Developer Partners will Include:

Throughout the development of the Project, the Co-Developer Partners will work closely with all stakeholders, including NBHA staff, NBHA public housing residents, the surrounding community, and NBHA consultants, including but not limited to The Barner Group. The Co-Developer Partners will be responsible for ensuring that the final master plan is approved, financed, and implemented.

General:

- **Site Selection Validation** - As previously noted, NBHA has identified properties as the primary sites for the implementation of the projects. The selected Co-Developer Partners will perform the due diligence necessary to determine if NBHA-identified sites are viable for purposes of the development process. In the event the Co-Developer Partners do not deem sites to be viable the Co-Developer Partners will assist with the site selections and acquisition of cost feasible alternate sites.
- **Oversee and Implement Development Efforts** - Provide the necessary staffing, expertise, supervision and guarantees to implement all aspects of the development fully and expeditiously as required by the Master Development Agreement.
- **Hire and Manage Consultants and Contractors Necessary for Planning and Implementation** - Develop a competitive financing application. Procure other consultants and/or contractors and coordinate all tasks necessary for all financing applications, finalization of the master plan, and all implementation tasks. At a minimum, the Developer Partner's team will need to include consultants appropriate to complete funding applications, master planning, architectural, environmental review, market analysis, geo- technical studies, civil, mechanical, and electrical engineering, and any other activities deemed necessary by the Development Partner and NBHA. Respondents are strongly encouraged to demonstrate participation on their team, whether by joint-venture arrangements or otherwise, of local expertise in areas of relevance to the planning and development process, including LIHTC financing and construction matters.
- **Maintain Communication Regarding Project Progress With NBHA, HUD, All Key Stakeholders and The Larger Public** - NBHA will establish a regular schedule of team

meetings, in which the Co-Developer Partners will participate. Moreover, the Co-Developer Partners will be responsible for submitting monthly progress reports to NBHA, in such formats and media as NBHA might direct, on the project status and schedule, including but not limited to design, permits, financing, resident coordination, etc.

- **Develop and Maintain Quality Control Measures** - The Co-Developer Partners will be responsible for ensuring the Projects are constructed and managed with the highest quality materials and workmanship. The Co-Developer Partner will be required to implement quality assurance and control measures to ensure effective performance by all parties in all aspects of the program.
- **Develop and Maintain a Detailed Development Schedule and Critical Path Schedule** - Develop and maintain a detailed schedule of events, predicated on financing deadlines that include pre-development activities, construction start, project stabilization and permanent loan close. Develop a Critical Path Schedule for all phases of construction, and lease-up and stabilization.
- **Foster Resident Involvement in Project Implementation (Occupied Sites)** - Facilitate and foster the involvement of public housing and other neighborhood residents in the design and implementation of the master plan. In cooperation with NBHA, keep residents informed of the status of the project, assist in providing job opportunities for residents during and after implementation, and assist/encourage resident businesses.
- **Be Responsive to Local Community and Neighborhood and Governmental Interests** - Promote and maintain good relations with community and neighborhood groups, and federal, state and local governments.
- **Compliance with Laws** - Comply with all applicable federal, state and local laws, rules and regulations applying to the activities required by the Agreement.
- **Debarment** - The Co-Developer Partners must provide evidence that any subcontractor is not debarred, suspended, or otherwise prohibited from professional practice by any federal, state or local agency.
- **DBE/MBE/WBE Opportunities** - The Co-Developer Partners will take all necessary affirmative steps to assure that disadvantaged, minority, and women-owned business enterprises are used to the greatest extent feasible in compliance with Presidential Executive Orders 11625, 12138, and 12432, and as promulgated in 24 CFR Part 85. NBHA's goals and expectations are that the selected Co-Developer Partners will meet or exceed 20 percent of the total value of all contracts and subcontracts awarded to qualified minority owned firms, and 5 percent of the total value of all contracts and subcontracts awarded to qualified woman owned firms. The goals/expectations for DBE/MBE/WBE participation apply to each contracting action valued in excess of \$100,000- regardless of the Co-Developer Partners' procurement activity are otherwise not applicable to 24 CFR Part 85.36. The selected Co-Developer Partners shall have a viable program in place to assure the goals are met or exceeded. A monthly report to the NBHA will be required by the Co-Developer Partners to accurately demonstrate the level of effort and compliance.
- **Section 3** - The Co-Developer Partners will be expected to develop a strategy for fostering Section 3 employment, training and contracting opportunities throughout the development process that are consistent with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u). NBHA is committed to ensure that all contractors and any tier subcontractors that are awarded a contract in excess of \$100,000 for work generated through the expenditure of HUD funding shall take all necessary and reasonable steps to provide meaningful, full- time, permanent employment and training to Section 3

qualified persons. The Section 3 employment goal is 30-percent of all new hires. Further, all contractors and any tier subcontractors that are awarded a contract in excess of \$100,000 for work generated through the expenditure of HUD funding shall take necessary and reasonable steps to provide business opportunities to Section 3 qualified business concerns. The Section 3 contracting goal is 10-percent of contract and subcontract value. The selected Co-Developer Partners shall have a viable program in place to assure the goals are exceeded. A monthly report to NBHA is required by the Co-Developer Partners to accurately demonstrate the level of effort and compliance.

Pre-Development:

- **Prepare a Market Analysis Addressing the Residential Components of the Plan** - In order to finalize the overall development program, prepare a market analysis that will: assist in determining the proper mix of units and confirm that proposed rents and housing prices are supportable in the local market.
- **Funding and other Applications** - The Co-Developer Partners will assist NBHA with preparation of documentation necessary to obtain any and all project approvals from HUD. In addition, the Co-Developer Partners will prepare all Low-Income Housing Tax Credit and other funding applications that will help to leverage NBHA's investment into the property.
- **Master Planning Process** - Plan, coordinate, and lead a comprehensive master planning process that will solicit meaningful input from NBHA and all local stakeholders. It is anticipated the master planning process will take several months with multiple charrettes and will require several versions of site plans, renderings and other media to clearly articulate the master planning options.
- **Prepare Final Master Plans** - In consultation with NBHA, the residents and other interested stakeholders, refine the conceptual designs provided by NBHA and ensure that the development design supports the program goals, feasibly achieves the unit counts envisioned, and is acceptable to NBHA, HUD, and the community.
- **Obtain Environmental Clearances** - In collaboration with NBHA, procure the necessary consultants and prepare the necessary documents to obtain environmental clearances from all interested agencies.
- **Plans and Specifications** - The Co-Developer Partners will be responsible for the preparation of the infrastructure and building plans and specifications in accordance with NBHA's environmental objectives and design Standards which will be subject to NBHA's review.

Financing:

- **Produce an Overall Financing Plan** - Produce an attainable financing plan for the overall development project. The overall financing plan will be developed in conjunction with the master plan and market analysis. The financing plan must demonstrate a sensitivity and approach in using NBHA funds in the most efficient manner, maximizing leveraging of all funding to the greatest extent possible.
- **Prepare the Finance Proposal/HUD Rental Term Sheet** - Provide required information to assist the preparation of the Section 18 Demo/Dispo and/or RAD/Section 18 Blend Application.
- **Financing Application(s)** - In accordance with the Agreement, the Co-Developer Partners will be required to pursue diligently and use best efforts to obtain all financing necessary to implement the master plan in a timely fashion, which may include, but not be limited to, tax

credits, tax-exempt bonds, state and local funds and private debt.

- **Maximize the Leveraging of Public and Private Resources** - Maximize the leveraging of public and private resources by pursuing all reasonable sources of financing and utilizing a variety of partners and partnerships. Take full responsibility for securing all financing sources in a timely fashion. Coordinate discussion and negotiations with financial institutions and private partners. All financing terms are subject to review and approval by NBHA.
- **Obtain Financing** - Through the use of Low-Income Housing Tax Credits ("LIHTC"), HOME Funds, Community Development Block Grant Funds, funds, and other public or private funding sources, to develop the property.
- **Obtain Equity Investment** - Using competitive process, obtain equity financing commitment on the best terms currently available as required by the Agreement and subject to NBHA's approval.
- **Guarantees** - In accordance with the Agreement, provide all guarantees required for the successful financing of the revitalization effort, including completion guarantees, operating deficit guarantees, and tax credit adjuster or recapture guarantees and guarantees of performance under the Agreement. NBHA will require that the Co-Developer Partners demonstrate financial ability to honor the guarantees and indicate how they intend to honor the guarantees if necessary.
- **Operating Feasibility** - As required in the Agreement, structure such reserves and other devices as will reasonably guarantee the long-term operating feasibility of the Project, utilizing no more subsidy than committed by NBHA.
- **Accounting/Financing** - As to be provided for in the Agreement, maintain accounting records and ensure Project financing is available at the appropriate times and utilized in the appropriate manner.

Construction:

- **Hire Qualified General Contractors and Oversee Construction Activities** - The Co-Developer Partners will create and implement a process for selecting the most qualified General Contractor. During construction, the Co-Developer Partners shall provide oversight, and management as deemed necessary, of construction activities by coordinating with all development team members and attending job-site meetings to ensure the expeditious implementation of construction activities. Regular onsite construction monitoring is critical to the success of the project; the Co-Developer Partners must have an onsite presence during the term of construction. Any construction management, other than NBHA or investor representatives, are considered Developer overhead and may not be paid with project funds.
- **Facilitate Necessary Site Improvements** - Pursuant to the Agreement, the Co-Developer Partners shall initiate and complete site work and infrastructure construction in collaboration with NBHA.
- **Implement Development Program** - In accordance with the final master plan approved by NBHA, the Co-Developer Partners will develop all improvements associated with the development program.

Ownership and Asset Management:

- **Organize Ownership Entity** - Upon completion of the master plan and its acceptance by NBHA, the selected Co-Developer Partners will be expected to organize an ownership entity(ies) and structure(s) approved by NBHA and requirements of other financing sources.
- **Ensure the Short- and Long-Term Viability of the Developed Projects** - Co-Developer Partners shall develop and implement marketing, occupancy/re-occupancy, asset and property management plans that will ensure the short- and long-term viability of the Projects.
- **Select and Oversee a Property Management Firm for the rental units** - The Co-Developer

Partners shall include a property management firm that meets lender and/or investor qualifications and is committed to building the capacity of NBHA to assume future management responsibility for the mixed finance units.

- **Market and Lease-up the Rental Units** - The Co-Developer Partners shall create and implement a marketing and lease-up strategy for the rental units to ensure that stabilized occupancy is achieved in compliance with all applicable financing and land use agreements.

Additionally, NBHA shall have an option and right of first refusal to acquire the Development in the event a bona fide offer, to purchase the Development, is received by the owner entity or at any time after the expiration of the LIHTC compliance period. Such right and option shall be for a purchase price equal to the minimum required pursuant to Section 42 of the Internal Revenue Code. Such rights shall be set forth in the Partnership Agreement or the Operating Agreement for each owner entity.

SECTION 3: SUBMISSION REQUIREMENTS

- 3.1 Outline of Submission Requirements.** Listed below are the sections that must be included in the written qualification's submission. Each section must be clearly labeled using the bold-faced titles listed below and shall be assembled in the order described herein. The required submission must be bound, and each section tabbed and labeled with the following eight sections outlined below. A detailed Table of Contents must be provided.

Respondents must compile responses using the following outline:

1. Letter of interest
2. Team Description and Profile
3. Team Experience
4. Staff Experience
5. Methodology
6. Financial Capacity
7. DBE/MBE/WBE/Section 3 Participation Plan
8. Required Certifications, Forms and Vendor Application

- 3.2 Description of Submission Requirements.** The following provides guidance on what the qualifications-based submission must contain and how it must be organized. The purpose of this information is to establish the requirements, order and format for responses, and to ensure that the submissions are complete, include essential information and can be fairly evaluated. Respondents are requested to avoid duplicative materials and redundancies in the submission.

- 3.3 Letter of Interest.** The cover letter should list the development team members and identify the primary contact person. Please include phone number and e-mail address. The letter must be signed by an authorized principal of the Developer Partner's firm and include a statement that the submission will remain valid for not less than 180 days from the date of the Board of Commissioners' approval of the Developer Partner.

- 3.4 Team Description and Profile.** Provide general information on the Developer Partner and each member of the development team, including the following:
- a. Contact person, title, telephone/facsimile numbers and e-mail address.
 - b. Name of Developer Partner, main address, telephone/facsimile numbers and e-mail address.

- c. Address, phone, and facsimile numbers of office from which services will be provided, if different from above.
- d. Description of the firm size, number of employees, and a description of type, location, scheduled completion, and dollar value of the projects in the pipeline.
- e. Proposed role of Developer Partner within development team.
- f. Identify the individual who will serve as project manager for the development team and who will direct and coordinate the development effort through completion. Describe the project manager's prior experience with projects of similar scope and size, with particular emphasis on experience directing a multi-disciplinary team and facilitating a community involvement process.
- g. Provide an organization chart of the development team. All entities that comprise the team must be identified including consultants, contractors, and attorneys, indicating their specialization(s), and specific contribution to the team. Our current team members include

Tiffany Askew, Executive Director,
New Bern Housing Authority.

Reggie Barner, Developer Consultant,
The Barner Group, LLC,
Aiken, SC

Stogner Architecture, Project Planner/Architect
Rockingham, NC

- h. Provide a description of the development team's prior expertise working together. In addition, provide examples of the team's prior experience with projects of similar scope and size, as well as experience in financing and developing mixed finance projects within the State of North Carolina.
- i. Provide a narrative description of the team's previous experience in integrating community and supportive services and Section 3 goals into the overall development and maintenance of similar projects.
- j. Indicate whether the Developer Partner or any team member has ever been terminated from a contract, and if so, describe the circumstances and outcome; and
- k. Indicate whether the Developer Partner or any team member has ever sued or been sued by a Housing Authority, and if so, describe the circumstances and the outcomes.
- l. Provide information on all green building development projects in which the Respondent has participated. An important goal of the NBHA is to develop an environmentally responsible development on the site(s) that can serve as a model for residential construction in Craven County and the State of North Carolina. It is the intent of the NBHA to implement financially feasible, technologically sound strategies to conserve energy and to surpass current norms for water conservation, waste management/recycling and the quality of the indoor environment. The NBHA will require that such strategies and all efforts to reduce tenant expenses, e.g. utilities, be fully explored in the development of the site(s).

- 3.5 Team Experience** Provide an overview of the Developer Partner's experience in the planning, construction and management of projects similar to what is proposed. Include the following information for the last five (5) years. List projects in chronological order:
- List all **affordable rental housing development projects** (preferably involving partnerships with housing authorities) successfully completed to include incorporating CNI and FEMA funding, or financed and under construction, within the past 5 years, identifying location, sources of financing, including when applicable the size of the tax credit allocations and tax-exempt bond allocations received, who the investor was and how much the investor paid for the tax credits (expressed in cents per tax credit dollar). Identify which of these are senior housing projects and projects located within the State of North Carolina. Specify the number of units, the unit size, the income groups served and the cost of each project. Provide evidence of timely development demonstrating that projects were on schedule and within budget. Provide references and contact information for listed projects.
 - Indicate the projects that employed **sustainable development techniques** and **green building initiatives**.
 - Demonstrate experience with **property management** (either directly or through supervisor) of property management provided by a third party). Include information about income groups served, current occupancy levels, and operating deficit history.
- 3.6 Staff Experience** Provide profiles of key staff, including the Project Manager, who will be involved in the development effort. Specify the roles of key staff in carrying out this development initiative and their previous experience with housing development and development.
- 3.7 Methodology.** Describe the detailed steps proposed to implement the development of the project. Provide a proposed schedule showing necessary approvals and funding awards.
- 3.8 Financial Capacity.** Demonstrate financial capacity to complete the project and provide guarantees.
- Attach three concurrent years of audited or Certified Public Accountant prepared **financial statements** from each member of the Developer Partner's team who will be providing any guarantees in connection with the development and operation of the project. The financial statements must include the most current year for which audited, or CPA prepared financial statements are available. The statements must include an Income Statement as well as a Balance Sheet showing assets, liabilities and net worth of the entity. **Financial statements and bank references may be placed in a separate sealed envelope marked "confidential."** Additionally, submit one bank reference for the Developer Partner.
 - Provide a statement indicating how the Developer Partner will honor all financial guarantees, should the need arise.
- 3.9 References** In addition to the bank references, five references must be submitted for the Developer Partner. References that are relevant to the scope of work as anticipated in this RFQ including one from a public sector entity and four from among the following entities are required:
- Construction and permanent lenders
 - LIHTC limited partner investor
 - General contractor on a comparable development
 - Community group or public housing resident group that worked with the Developer Partner on a specific project
- 3.10 DBE/WBE/Section 3 Participation Plan.** Responses should evidence that NBHA's stated participation goals, in terms of DBE, WBE, and Section 3 business enterprise contracting,

and Section 3 resident employment and training, will be met. The response must include a discussion of the approach and methods your team will utilize to assure significant employment of residents of NBHA and other individuals eligible as Section 3 participants. The response must indicate that the Developer Partner will require all contractors and subcontractors to utilize appropriate apprenticeship programs when available as a means to meet the Section 3 employment goals. Identify the extent to which M/WBE/Section 3 businesses are included in the development team. Describe prior development experience utilizing M/WBE and local businesses in sufficient detail to reveal the team's track record and allow an assessment of the level and quality of effort. A detailed DBE/WBE and Section 3 Plan will be prepared as part of the Master Development Agreement.

3.11 Required Certifications. The following forms, which are included in Appendix 1, must be included in the submission and must be properly executed and/or notarized (where necessary):

- a. Submittal Statement
- b. Conflict of Interest Certification
- c. Profile of Firm
- d. HUD Form 5369-C Certifications and Representations of Offrers

SECTION 4: PROCUREMENT PROCESS

4.1 Qualifications Evaluation/Contract Award. Qualifications received in response to this solicitation may be evaluated using a two-stage evaluation process. Stage I of the evaluation process will be used to determine the firms that will comprise the competitive range, from which final selection for contract award will ultimately be made. Stage II of the evaluation process will be reserved for the competitive range firms only. Scoring will be based upon how well the submission meets the criteria established in this RFQ.

During Stage I of the evaluation process, qualifications will be evaluated and scored by an Evaluation Committee. Scoring will be based on predetermined Evaluation Criteria contained in the solicitation. The available points associated with each area of consideration are shown. The results of the evaluation will be used to determine those respondents to be included in the competitive range.

The competitive range shall include those respondents who are determined through the evaluation process and due diligence review (verification of contractor responsibility) to be the most qualified. These firms may be requested to supply additional information to assist in completing the due diligence review. Failure to provide the required information within the timeframe established by the NBHA will result in exclusion from the short list.

If NBHA determines a Stage II is necessary, Stage II of the evaluation process will entail presentation/interviews with the respondents on the short list. Respondents not included in the competitive range will not proceed to Stage II of the evaluation process. The purpose of the presentations/interviews is to provide the Evaluation

Committee an opportunity to pose questions emanating from their review of the written responses and obtain clarifications. Stage II evaluation will be conducted upon completion of the presentations/interviews in accordance with the same procedures and criteria outlined above for Stage I evaluation.

The firms with the highest scores from Stage II of the evaluation process will be selected to proceed to the contract negotiation stage. If a contract cannot be negotiated with the firms, negotiations will be terminated. NBHA will then initiate negotiations with the next set of highest rated firms in the competitive range. This procedure will continue until a mutually satisfactory number of contracts have been negotiated. The number of contracts shall be no less than three (3).

NBHA reserves the right to make no awards or decline to enter into negotiations should it believe that no respondents to this RFQ will be capable of delivering the necessary level of services within an acceptable price range and/or time period. NBHA further reserves the right to forego Stage II of the evaluation process and enter into negotiations with the highest ranked firms from Stage I of the evaluation process. If an agreement cannot be negotiated with these firms, the NBHA will terminate negotiations. NBHA will then initiate negotiations with the next set highest ranked firms. Contract award may be subject to approval by the NBHA's Board of Commissioners and the United States Department of Housing and Urban Development (HUD).

- 4.2 Evaluation Criteria Each** submission will be evaluated based on its responsiveness to this RFQ, and in accordance with the Evaluation Criteria contained in the following table:

| Evaluation Factors | Points |
|--|---------------|
| <p>Team Experience</p> <p>The degree to which the Developer Partner's Team demonstrates:</p> <p>Successful experience in the master planning and construction of RAD Conversion, CNI, mixed-income development. Projects of comparable size and complexity, preferably including public housing units.</p> <p>Cohesion of the team as demonstrated by previous experience working together. Prior mixed-income development experience in the State of North Carolina, as well as experience working with FEMA and North Carolina Emergency Management Agency.</p> <p>The degree to which the team demonstrates successful experience with ownership and property management of mixed-income rental developments of similar size, either directly or through supervision of property management.</p> | 30 |
| Staff Experience | 20 |

Degree to which respondent demonstrates that assigned staff of the developer and members of the team have significant successful experience in their respective disciplines as required for the planning, development and operation of mixed-income developments of comparable size and complexity.

Methodology**10**

The methodology provided by the respondent indicates their knowledge of steps and timeframes necessary for implementing a RAD conversion, mixed-income building.

Financial Capacity**20**

Ability to obtain, structure, and implement financing for such projects

The financial capacity (as developer and provider of guarantees) as evidenced by financial statements, the developers most recent audit and bank references, and the Developer Partner's discussion of how it intends to honor all guarantees should the need arise.

DBE/WBE/Section 3 Employment and Contracting Plan**15**

Extent to which DBE/WBE/Section 3 businesses are included on the Development Team.

Level and quality of previous experience utilizing DBE/MBE/WBE/Section 3 businesses.

Degree to which the development team demonstrates its commitment to ensuring that

DBHA's stated DBE/MBE/WBE/Section 3 goals are met and/or exceeded.

References**5**

Quality of references provided and responses.

TOTAL**100****SECTION 5: INSURANCE REQUIREMENTS**

The following insurance shall be furnished by the successful Developer Partner:

Furnish Certificate of Insurance in duplicate, with The New Bern Housing Authority, NC Housing Authority Project Name and Number stated on the Certificates and submit prior to the beginning of on-site operations. The coverage and amounts below are minimum requirements and do not establish limits to the Developer Partner's liability. Other coverage and higher limits may be provided at the Developer Partner's option and expense.

- 1) STATUTORY WORKERS' COMPENSATION EMPLOYERS' LIABILITY (not less than \$100,000.00). Broad Form All States coverage.
- 2) COMMERCIAL GENERAL LIABILITY. To be provided on an "occurrence" basis, with coverage to include explosion, collapse and underground hazards (XCU). Blanket Contractual, Products, Independent Contractors, Completed Operations, Personal injury and Employees as additional insured.

BODILY INJURY LIMITS

\$1,000,000.00 each occurrence

\$1,000,000.00 aggregate*

PROPERTY DAMAGE LIMITS

\$1,000,000.00 each occurrence

\$1,000,000.00 aggregate*

PERSONAL INJURY LIMITS

\$1,000,000.00 each occurrence

\$1,000,000.00 aggregate*

(*) Aggregate shall apply to this project only aggregate not to include other projects and must be identified as such on the Certificate on Insurance.

- 3) AUTOMOBILE LIABILITY, including owned, non-owned, and hired automobiles. Automobiles of subcontractors and material suppliers must meet the same insurance requirements.

BODILY INJURY LIMITS

\$500,000.00 each person

\$500,000.00 each person

PROPERTY DAMAGE LIMITS

\$250,000.00 each occurrence

- 4) EXCESS UMBRELLA LIABILITY, to provide insurance in excess of Employers' Liability, Commercial General Liability, and Automobile Liability policies required hereunder.
\$2,000,000.00 each occurrence and \$2,000,000.00 general policy aggregate.

- 5) The Contractor shall be responsible for and maintain property insurance coverage at his option and expense to cover tools, equipment, etc., owned or rented, the capital value of which is not included in the cost of the work.
- 6) All policies are to be written by insurance companies licensed to do business in the state in which the work is performed and be acceptable to The New Bern Housing Authority, NC.
- 7) All Certificates are to contain substantially the following Statement: "The insurance covered by this Certificate shall not be canceled, nor materially altered, except after sixty (60) days prior written notice to The New Bern Housing Authority, NC, Attn: Procurement and Contracts Department".

- 8) Commercial General Liability insurance under a "claims-made" policy is not acceptable. Coverage must be provided on an "occurrence" basis.
- 9) The New Bern Housing Authority, NC, its Board Members, officers, employees, and agents are each to be named as an "Additional Insured" on all liability insurance.

Appendix

Required Forms and Certifications

Click on the solicitation page and download for

Submittal Statement

This Form must be fully completed and placed as indicated in the proposal submittal instructions.)

1. The undersigned certifies that this proposal is made in good faith, without collusion or connection with any other person or entity proposing on this work.
2. The undersigned Offeror has examined and read (cover to cover) all specifications, general and special conditions, other contract documents, and all addenda thereto; and is acquainted with and fully understands the extent and character of the work covered by this proposal and the specified requirements, for the proposed work.
3. The undersigned Offeror hereby states that by completing and submitting this Form and all other documents within this submittal, he/she is verifying that all the information provided by the Offeror herein is, to the best of his/her knowledge, true and accurate, and that NBHA discovers any information entered herein to be false, such shall entitled NBHA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFQ, either in hard copy or electronic copy.
4. The undersigned Offeror certifies that no officer or agent of the NEW BERN HOUSING AUTHORITY, NC will directly or indirectly benefit from this proposal.

Name (signed) _____ Date _____

Name (printed) _____ Title _____

Phone Number _____

Email Address _____

Company Name _____

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

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

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

Applicant

Date

Signature of Authorized Certifying Official

Title

Certification of Payments to Influence Federal Transactions

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

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

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

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.

Signature & Date:

Typed or Printed Name:

Title:

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

proposal submitted before final payment of the contract.

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

