



RFP-001-T-2026

VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY

The Virgin Islands Waste Management Authority is hereby soliciting proposals for **RFP-001-T-2026 for Engineering Design & Environmental Consulting Services for Mangrove Wastewater Treatment Facility.**

Interested parties and prospective respondents may request the complete RFP Package for their review from the Authority by submitting a request confirmation email with contact information for the respective company to sdavid@viwma.org and mvante@viwma.org. **All questions pertaining to the scope of services to be rendered should be directed to Michael Vante, Contract and Inventory Manager, on or before Tuesday, March 3rd, 2026.** Responses to questions will be forwarded in the form of an Addendum to those parties who have confirmed interest by formally requesting the bid package.

Virgin Islands Waste Management Authority
Procurement and Property Division
7410 Estate Bovoni, Bay 2
St. Thomas, VI 00802
Tel: (340) 715-9170
mvante@viwma.org

A Pre-Bid Meeting Conference will be held on Thursday, February 26th, 2026 at 11:00AM at the VIWMA Conference Room at 7410 Estate Bovoni, Bay 2, St. Thomas USVI to be followed by a Site Visit at the Mangrove Facility.

Responses will be submitted electronically in PDF format bearing the respective RFP Number: RFP-001-T-2026 to mvante@viwma.org on or before Friday, March 20th, 2026, at 12:00 P.M. Atlantic Standard Time.

The Virgin Islands Waste Management Authority reserves the right to waive any non-substantive informalities, technicalities, or irregularities, or reject any or all qualifications and proposals/bids; or to re-advertise for proposals/bids, and to award or refrain from awarding the contract for the work.

***Hannibal “Mike” Ware
Executive Director***

It's Our Home! Let's Keep It Clean!

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Request for Proposals (RFP)
for
Engineering Design and Environmental
Consulting Services for Mangrove
Wastewater Treatment Facility
-
(St. Thomas, USVI)

Issued:

February 2026
Virgin Islands
Waste Management Authority
Wastewater Division

TABLE OF CONTENTS

Section 1: General Background...	3
Section 2: Purpose & Objectives...	3
Section 3: Design Standards	3-4
Section 4: Scope of Work.....	5-6
Section 4C: Analysis & Design Phase.	6-7
Section 4D : Construction Document Phase.....	8-9
Section 5 : Key Personnel & Minimum Qualifications	9
Section 5.1 Minimal Professional Qualification.....	10-13
Section 6: Services to be provided by the Selected Awardee...	14
Section 7: Use of Sub-Contractors...	15
Section 8: Proposal Submittal Content.....	15-17
Section 8.1 Cover Letter.....	17
Section 8.2 Key Personnel & Minimum Qualifications	17
Section 8.3 Contract Management Plan...	17
Section 8.4 Project Schedule...	17
Section 8.5 Cost Proposal Submitted.....	17
Section 8.6 Oral Interviews.....	18
Section 9: Contractor Responsibilities.....	18
Section 9.1 Permits & Regulations.....	18
Section 9.2 Record Keeping& Reporting.....	18
Section 9.3 Health & Safety...	18-19
Section 9.4 Non-Discrimination.....	19
Section 9.5 Business Considerations...	19
Section 9.6 Contract Agreement.....	19-20
Section 9.7 General Federal Grant Requirements & HUD General Provisions	20
Section 9.8 Davis Bacon Act (DBA)1931.....	21
Section 9.9 Conflict of Interest...	21
Section 9.10 DBE Program Provisions.....	21-22
Section 9.11 Minority & Women Owned Business Enterprises (M/WBE)	22
Section 10: Eligibility Requirements...	22
Section 10.1 Licensing Requirements.....	22
Section 10.2 Requirements of Legal Entities...	22
Section 10.3 Required Documents.....	23
Section 10.4 Workman's Compensation.....	24
Section 11: Proposal Format.....	24-25
Section 11.1 Sub-Envelope Package 1.....	25-28
Section 11.2 Sub-Envelope 2.....	29
Section 12: Completeness of Proposal...	29
Section 13: Consideration of Proposal...	29
Section 14: Withdrawal of Proposal.....	30
Section 15: Contract Time Period.....	30
Section 16: Proposal Evaluation/Selection Process.....	30-31
Section 17: Glossary.....	31
Section 18 : Enclosures & Attachments.....	31
Enclosure Document A VIWMA RFP Cover Letter.....	32
Enclosure Document B VIWMA Non-Collusion Affidavit.....	33
Enclosure Document C VIWMA Debarment Certification Form.....	34
Enclosure Document D VIWMA Respondent Qualifications Statement.....	35
Enclosure Document E VIWMA Contract Document Checklist.....	36
Enclosure Document F VIWMA Base Bid Sheet.....	37

Engineering and Environmental Design and Consulting Services for Mangrove Wastewater Treatment Facility – St Thomas USVI

SECTION 1: GENERAL BACKGROUND

The Virgin Islands Waste Management Authority (VIWMA) is issuing this Request for Proposals (RFP) from submitters capable of entering into an Engineering and Environmental Consulting agreement to provide Engineering Design, Environmental Consulting and personnel required for the Mangrove Wastewater Facility Rehabilitation. The VIWMA and the successful submitter shall enter into a mutually binding full-service Agreement addressing the topics contained in this document. The VIWMA also reserves the right to modify/expand/decrease the scope of the services in co-ordination with the successful submitter to include additional or reduced terms and conditions. Such additional or reduced terms and conditions may result in additional compensation to the successful submitter or result in a reduction in compensation.

It is understood that the information contained in the RFP and the experience guarantees and innovative approaches demonstrated therein shall be the general basis for selection of a submitter to provide these professional services. The VIWMA shall select the most qualified submitter based on a structured point scoring evaluation. The scoring evaluation shall consider each submitter's ability to perform the required services, experience and technical expertise, ability to make financial and technical guarantees, corporate resources, and in-depth and innovative approaches.

SECTION 2: PURPOSE AND OBJECTIVES

The purpose of this solicitation is to provide Engineering and Environmental Consultant Services for the Mangrove Wastewater Facility Rehabilitation established in this RFP but not limited to the following services subject approval in writing from the Virgin Islands Waste Management Authority.

The objectives include but are not limited to assisting the Virgin Islands Waste Management Authority (VIWMA) with scope of work development, survey services (boundary, topographic) hydraulic studies and designs, complete design sets to include plans, profiles, specifications, engineering cost estimate, bidding documents and construction administrative services. These services are essential for the rehabilitation of the Mangrove wastewater treatment facility. The awarded vendor(s) will primarily be assigned projects related to the Authority's Environmental Protection Agency (EPA) grants.

SECTION 3: DESIGN STANDARDS

- Americans with Disabilities Act
- 2018 International Building Codes for essential facility seismic Site Class D & Seismic Use Group IV, 175 MPH wind loads, a marine environment, & a design life of over 15 years
- Standard Specifications for the Construction of Roads & Bridges on Federal Highway Projects (FP-14)
 - The Contractor agrees to maintain the following professional standards:
 - American Water Works Association (AWWA)
 - National Association of Sewer Service Companies (NASSCO)

- Federal Highway Administration (FHWA)
- Occupational Safety and Health Administration (OSHA)
- National Sanitary Foundation (NSF)
- National Standard Plumbing Code (NSPC)
- National Association of Corrosion Engineers (NACE)
- National Electrical Code (NEC)
- Underwriter's Laboratory Incorporated (UL)
- American Society of Civil Engineers (ASCE)
- American Concrete Pipe Association (ACPA)
- Asphalt Institute (AI)
- American National Standards Institute (ANSI)
- American Society for Testing and Materials (ASTM)
- American Welding Society (AWS)
- American Association for State and Transportation Officials (AASHTO)
- American Concrete Institute (ACI)
- American Water Works Association (AWWA)
- Environmental Protection Agency (EPA)
- American National Standards Institute (ANSI)
- American Society for Testing and Materials (ASTM)
- American Welding Society (AWS)
- American Association for State and Transportation Officials (AASHTO)
- American Concrete Institute (ACI)

SECTION 4: SCOPE OF WORK

VIWMA seeks proposals from qualified licensed firms to provide scope development services with expertise in all phases of engineering design, environmental consulting, development of specifications, and bidding documents of the Wastewater Treatment Plant.

The VIWMA request professional services shall include , surveying, engineering design and environmental services related to the design (30% 60% and 90% submittal packages). Submitters are required to participate in a mandatory pre-bid meeting and site walk through. Submitters will have the opportunity to complete an on- site assessment of the facility three days prior to the pre-bid meeting. Submitters shall utilize the information gathered from the walk through to develop and finalize their proposals. The following deficiencies have been observed by VIWMA staff and should be addressed as part of proposal submittal:

- Installation of upgraded headworks equipment – mechanical bar screen, grit, and oil grease (O&G) removal system and three (3) upgraded transfer pumps.
- Interception and realignment of influent force main to feed new headworks location.
- Upgrade of SBR mixers.
- Upgrade of SBR's aeration diffusers (3 tanks)– accounting for capacity increase.
- Upgrade of SBR's internals – decanting arm.
- Upgrade of existing blowers.
- Upgrade of existing wastewater and sludge transfer pumps.
- Evaluation and upgrade of SBR aeration header – repair leaks, replace pneumatic valves.

- Upgrade of a UV disinfection system.
- Upgrade of three (3) effluent pumps.
- Upgrade of screw press dewatering unit.
- Upgrade of backup generator.
- Overall electrical system evaluation and upgrade as needed – to include drainage improvements, rerouting conduit, electrical resource relocations.
- Installation of an air dryer for compressed air system.
- Upgrade of the septage receiving unit.
- Upgrade of sludge pumps at septage receiving.
- Structural repairs to **All** structures to include the complete upgrades of administrative building, SBR's, Walkways.
- Upgrade of field instrumentation and controls system for remote monitoring of equipment and process parameters.
- Replacement of overhead electrical and communication service with underground service (Replacement of two utility poles within plant limits)
- Stabilization of Rockwall behind SBR's
- Complete pavement and subbase reconstruction
- Installation of Control Logic System

Section 4C: Analysis and Design Development

Promptly upon execution of the contract, the vendor shall review applicable documentation and consult with the VIWMA to ascertain any additional information needed to complete the project. During this phase of the project, the vendor must provide the following:

- a. Develop & schedule project team
- b. Schedule project kick-off
- c. Establish/clarify roles, expectations, and point(s) of contact.
- d. Gather project information.
- e. Develop project program document including identified requirements, costs and funding, code reviews, site/building constraints and schedule.
- f. Present project program documentation to VIWMA for review
- g. Define the payment review process.

The vendor shall provide a complete set of construction drawings based upon information obtained through detailed observation and testing of the Wastewater treatment facility. A detailed set of specifications that outlines construction minimum requirements, material and equipment minimum requirements are to be provided with submittal. Design and specification packages shall be submitted at 30%, 60% and 90% packages for approval. All environmental assessments, NEPA approvals, TPEDS permits must be included in design submittals. These documents shall consist of a presentation of the complete concept of the Project,

including all major elements of the design to include hydraulic studies and calculations, mechanical, instrumentation, electrical design for pump station and equipment bypass installation, removal or decommissioning of old system etc.

- a. Environmental Analysis, Evaluation & Recommendations
 - a. Wetland delineation
 - b. Environmental Assessments
 - c. NEPA Approval
 - d. TPDES Permit Requirements
- b. Process flow, Hydraulic analysis and proposed layout of the wastewater treatment plant including specifications.
 - a. Submit sample outline specification of each trade, material, and equipment necessary to fully construct the design, for discussion with review and approval from VIWMA.
- c. Site plan(s) showing proposed plant layout as required.
- d. Drawings (appropriately sealed, by the relevant licensed professional.
- e. Submit - complete floor plans and complete details, schedules, and largescale plans.
- f. Complete wall sections, elevations, and collection system profiles to serve as the basis for construction.
- g. Provide an Engineer's Estimate covering all work designed or specified by the vendor, representing the vendor's best judgment as a design professional familiar with the construction industry and construction practices in the U. S. Virgin Islands.
- h. Project specific analysis of applicable codes, ordinances, and regulations; and the possible effect on the project.
- i. Facilitate meetings with appropriate VIWMA staff to review space square footage and space utilization needs to develop Preliminary Design Documents.
- j. Conduct Design-Development meetings with Chief Engineer or VIWMA designate staff and address points of clarification regarding the project.
- k. Prepare and submit Preliminary Project Design Documents, Preliminary Specifications, Preliminary Cost Estimate and Schedule to VIWMA for review and approval at 60% design completion.
- l. 2D and 3D Renderings of final concepts.

Section 4D: Construction Document Submittals

Upon approval of the preliminary Design Documents by VIWMA the vendor shall prepare and deliver to VIWMA for WMA's approval a 100% Bidding and Construction Documents, which are required prior to advertising for bids. The drawings and specifications produced in this Construction Documents Phase shall be consistent with the approved preliminary Design Documents. Changes that may be recommended by the Engineer to keep within the estimated construction cost, or for other reasons arising during this Phase; shall require the approval of VIWMA before execution. They shall include:

- a) Prepare complete Construction Documents & Specifications
 - a. These documents shall be set forth in detail and prescribe the work to be completed, the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical and civil site work; the necessary bidding information, together with bid and contract forms; and General and Special Conditions of the Contract. In addition, the drawings shall include the following:
 - 1. Title sheet with Index of drawings.
 - 2. Titled sheets for all demolition.
 - 3. Specifications outline the performance of all applicable work necessary to the administration and all aspects of the construction or demolition of the project.
 - 4. Completed site plans, floor plans, elevations, collection system profile, wall sections, mechanical, electrical details, and schedules for all new and modified work.
 - 5. Reference to applicable specialized work required for the abatement of lead-based paint and asbestos abatement; and
 - 6. Such other documents as VIWMA may require.
- b) Provide a detailed Engineer's Cost Estimate.
 - a. The vendor shall furnish VIWMA with a breakdown of the estimated construction cost of the Project consistent with the Bidding and Construction Documents. Changes from the Estimated Project Construction Cost shall be explained and are subject to the approval of VIWMA. The cost breakdown shall:
 - i. Show unit quantity, unit measure, unit cost, and total costs of labor and materials for each sub-heading.
 - ii. Show taxes and insurance on labor.
 - iii. Include applicable sub-architect/engineering costs.
 - iv. Use wage rates that reflect current (and if applicable, required) wages at the time the estimate is submitted.
 - v. Price material at the vendor's buying level; and
 - vi. Show any miscellaneous costs.
 - vii. General Conditions, etc.
- c) Submit construction documents for review.

- a. The vendor shall submit the above documents to VIWMA and shall make all changes necessary to obtain approval by VVIWMA, or VIWMA's financial institution(s) or other applicable regulatory entity(ies) designated by VIWMA.
- d) Submit construction documents for review by VIWMA.
 - a. After the Bidding and Construction Documents are approved by VIWMA, the vendor shall submit to those agencies of the local, state or Federal Government (except HUD unless specifically instructed to the contrary by VIWMA, in writing) having jurisdiction over the Project documents, which they have the right to require for approval or permitting. The vendor shall promptly make all changes in the Bidding and Construction Documents necessary to obtain approval or permitting by these agencies.
- e) Correct plans to reflect issues noted by review.
- f) Final Documents

The vendor shall provide the following final documents in the form indicated below:

 - a. Seal - Licensed Design Professionals shall affix their seals and signatures to drawings and specifications produced under the Task Order.
 - b. Standard Reproduction Requirements. The vendor shall provide VIWMA five (5) sets of documents of the approved Bidding and Construction Documents, reproduced for bid and construction purposes in such form as the VIWMA may direct.
 - c. Revisions - The vendor, whenever necessary, shall make revisions in Bidding and Construction Documents necessary to gain or maintain approval of the documents, due to deficiencies, inaccuracies or required changes, and for other design matters for which the Architect is responsible under the Contract.

SECTION 5: KEY PERSONNEL & MINIMUM QUALIFICATIONS

The VIWMA is seeking a firm or individual with substantial, relevant experience and success in scope development, environmental consulting, and Architectural & Engineering Services. The selected respondent must be able to adequately demonstrate their experience in their proposal submittal. The Respondent must have the administrative infrastructure to effectively manage and support training, service delivery and fiscal management processes. Additionally, respondents should provide detailed information about the experience and qualifications of the Respondent's assigned personnel, considered key to the success of the project. Demonstration of experience and knowledge should include education, training, technical experience, functional experience, specific dates and names and contact information for employers, relevant and related experience, past and present projects with dates and responsibilities and any applicable certifications. Respondents should make every effort to include within their proposal positions for recent college graduates within the field of Engineering who graduated from a high school within the Virgin Islands.

Each proposal shall describe the organizational structure of the proposed team. At a

minimum each proposal shall include:

1. An organization chart showing the reporting responsibilities and organization of all Key Personnel, other staff to be assigned and subcontractors.
2. Key Personnel job descriptions and reporting responsibilities, an identification of all individuals performing functions of Key Personnel who meet the minimum qualifications of each key role.
3. Curriculum Vitae (CV) for all key personnel

5.1 Minimal Professional Qualification Requirements

This section requires the submitter to provide adequate information to exhibit its qualifications and ability to meet the standards of experience and financial capability to be considered qualified. The VIWMA, in its sole discretion, shall decide if a submitter meets the standards. Details of each submitter's experience and financial ability will be assessed at all levels, including the fiscal and the experience and strength of the submitter's parent company, if any. The specific selection criteria are outlined in **Section 16**. The following subsections are required minimum qualifications:

- a. Respondents that are corporations, partnerships, or any other legal entity, domestic or foreign, shall be properly registered to do business in the Territory at the time of the submission of their Proposal to this RFP. Such Respondents shall attach its license to do business or copy of its application for a license. Respondents should give a brief description of their company including brief history, corporate or organization structure, and number of years in business. If the Respondent is partnering or subcontracting with any other entity, provide the information described above for each such entity.
- b. A Proposal may be rejected at any time during the evaluation process and thereafter if there were any adverse findings that would prevent the Program from selecting the firm or any person or entity associated or partnering with the firm. Such adverse findings may include, but are not limited to, the following:
 - a. Negative findings from the Inspector General, a Federal Inspector General, or from the U.S. Government Accountability Office, or from an Inspector General in another State
 - b. Pending or unresolved legal action from the U.S. Attorney General or from an attorney general in another State or Territory
 - c. Pending litigation with the USVI, any other State or Territory
 - d. Suspension or debarment as ineligible of the System for Award Management (SAM)
 - e. Arson conviction or pending case.
 - f. Harassment conviction or pending case.
 - g. Local, State, Federal or private mortgage arrears, default, or foreclosure proceedings
 - h. In rem foreclosure
 - i. Sale of tax lien or substantial tax arrears

- j. Fair Housing violations or current litigation
 - k. Defaults under any Federal, Territory, State or locally sponsored program
 - l. A record of substantial building code violations or litigation against properties owned and/or managed by Respondent or by any entity or individual that comprises Respondent.
 - m. Past or pending voluntary or involuntary bankruptcy proceeding.
 - n. Conviction for fraud, bribery, or grand larceny by any Principal Respondent
 - o. Listing on the Federal or State excluded parties' lists.
- c. Respondent has adequate financial resources to fulfil the contract, or the ability to obtain them.
 - d. Respondent can comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
 - e. Respondent has a satisfactory performance record.
 - f. Respondent has a satisfactory record of integrity and business ethics.
 - g. Respondent has the necessary organization, experience, architectural and engineering skills, operational controls, and other necessary technical skills, or the ability to obtain them.
 - h. Respondent has thoroughly reviewed the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56) on September 8, 2017, and the Budget Bill (Pub. L. 115-123), all pertinent Federal Register notices, and the USVI Action Plan and all amendments thereto.
 - i. Respondent has knowledge of FEMA Public Assistance and Hazard Mitigation Grant Program, HUD Community Development Block Grant – Disaster Recover & Mitigation, Environmental Protection Agency, Department of Interior, Department of Energy, Economic Development Authority and/or other federal funding sources, funding requirements, regulations, etc. to ensure the project remains fully eligible for federal funding.
 - j. Respondent has established prior experience in successfully performing the scope of services requested.
 - k. Respondent and its employees hold and maintain all territorial, federal, state, and local licenses or certifications as required to perform the services requested.
 - l. Respondent is otherwise qualified and eligible to receive an award under applicable laws and regulations.
 - m. Respondent can comply with the required or proposed delivery or performance schedule,

taking into consideration all existing commercial and governmental business commitments.

- n. Respondent has adequate staffing to provide the required services throughout the entire contract term.
- o. Respondents must demonstrate they have knowledge and/or prior experience in the following areas, at a minimum:
 - a. Federal and state rules regarding lead paint and other environmental health hazards (e.g., mold, asbestos, radon)
 - b. USVI zoning, building and housing laws and regulations, including the USVI Development Code and Building Energy Code
 - c. Damage assessment and cost estimation.
 - d. Environmental Analysis, Consulting & Recommendations
 - e. Architectural & Engineering drawings, plans and specifications, and engineering specifications.
 - f. Construction documents drafting and review.
 - g. Construction project monitoring and progress inspection
 - h. Construction contract administration
 - i. Reporting and metrics
 - j. Customer service
 - k. Engineering cost estimates

Additionally, the selected firm must have or hire individuals or firms with all the qualifications, knowledge, skills and abilities for their assigned tasks, and/or have a qualified plan to train staff as necessary with the requisite skills and proficiencies. VIWMA desires that the firm's resources meet or exceed the criteria in **Section 4: Scope of Work** and **Section 5: Qualifications**.

The submitter must:

1. Have been in business for a minimum of five (5) years prior to the submission of this proposal.
2. Furnish liability and property damage insurance of not less than \$2,000,000.00 combined single limits for bodily injury, wrongful death, and property damage. Proof of coverage must be provided prior to the issuance of the related contract.
3. Furnish Errors and Omissions insurance for A/E Services of not less than \$2,000,000.00. The VIWMA shall be the additional named insured.

4. Demonstrate successful experience in design projects specific to the design of wastewater infrastructure, including pump stations, treatment plants, laterals, manholes, sewer lines (force main and gravity lines), and any other such wastewater processing and facilities the respondent may submit for evaluation.
5. Demonstrate specific experience of providing full-service operations services with public agencies or VIWMA or of entering into design agreements in the Virgin Islands, or in other municipal jurisdictions.
6. Provide a listing of five (5) most recent Wastewater Treatment Plant Engineering Design Projects for which the submitter has provided design services, including the cost of the project; the project start date; the completion dates; the names, addresses, contact persons and telephone numbers of the owners; and the size and type of infrastructure designed.
7. Describe submitter's breadth of knowledge and resources which would be brought to bear on the VIWMA project should the submitter be the successful contractor.
8. Demonstrate experience in infrastructure planning on a specified site; design to meet specifications and objectives of the project. The submitter must identify specific projects where such services were provided and the results of such services.
9. Have specific experience which exhibits the submitter's ability to evaluate, recommend and implement corrective and/or affirmative actions to improve the functionality of a service-oriented operation.
10. Have the proven ability to successfully address environmental issues which may affect the progress of the design of sewer/waste-water infrastructure.
11. List any pending litigation or bankruptcies, any environmental litigation and any judgments entered against the submitter in the last 5 years.

SECTION 6: SERVICES TO BE PROVIDED BY THE SELECTED AWARDEE

The submitter must provide the following services:

1. Provide complete existing conditions analysis, topographic survey, land/parcel survey and provide recommendations.
2. Perform Hydrologic & Hydraulic Study Report and provide recommendations.
3. Provide Engineering Analysis & Feasibility Study with recommendations.
4. Provide finalized project SOW description and detailed schedules including dates with project milestones.
5. Evaluate and propose recommendations for existing sewer line alignments.

6. Develop and engineer all underground infrastructure, equipment and material specifications.
7. Develop preliminary engineering plans, specifications and estimates for any necessary environmental documents.
8. Prepare environmental documents as per HUD, FEMA and NEPA requirements and as per National Historic Preservation Act Section 106 and Section 4(f) of the Department of Transportation Act of 1966 for approval. The selected A/E Firm cannot proceed with final design until NEPA/Environmental Planning and Historic Preservation (EHP) is completed and environmental documents approved.
9. A/E firm has ensured that all surveys, right-of-way, and final design plans are established using the NAD 83 Datum. A/E Firm shall establish two (2) permanent control points.
10. Develop and Prepare presentation plans and exhibits, conduct at least three (3) public meetings and hearings. *Three (3) public meetings (Design Public Meetings) will be held to inform the public and to receive and consider their comments. These meetings will occur prior to the design scope is fully defined and before the Engineering Team is about 60% complete.*
11. Identify required permits, prepare applications and follow through to issuance of permits.
12. Coordinate with all local utility agencies and prepare draft utility agreements.
13. A/E Firm shall submit final plans, specifications and engineer's cost estimate on Electronic File (AutoCAD, Microsoft Office Suite, and PDF Format)
14. Fully executed work products are expected within 365 days of receipt of the first executed task order for each respective project. VIWMA may dictate the expected timeline for completing each respective project's designs. Additional time extensions will require justification and approval by VIWMA prior to continued engagement post contract end date.
15. Awarded A/E Firm will be responsible for providing necessary updates to final documentation, feedback, clarification and engagement support as necessary during the Construction Bid Phase and Construction Phase through to construction completion.

The VIWMA will be responsible for aiding the selected contractor during the engagement process as it relates to grant of entry, site clearing, field surveys & visits, providing existing drawings/photographs, traffic control, public notices, and community engagement.

SECTION 7: USE OF SUB-CONTRACTORS

VIWMA shall have a single prime Contractor as the result of any contract negotiation, and that prime Contractor shall be responsible for all deliverables specified in the RFP and proposal. This general requirement notwithstanding, Respondents may enter subcontractor arrangements,

however, shall acknowledge in their proposal's total responsibility for the entire contract.

If the proposer intends to subcontract for portions of the work, the Proposer shall identify in its proposal any subcontractor relationships and include specific designations of the tasks to be performed by the subcontractor. The documentation required of the prime Contractor is also required for any subcontractor. The prime Contractor shall be the single point of contact for all subcontract work. Every subcontract shall incorporate and follow the terms of the contract between the prime Contractor and VIWMA.

Unless provided for in the contract with VIWMA, the prime Contractor shall not contract with any other party for any of the services herein contracted without the express prior written approval of VIWMA. The prime Contractor shall be responsible for fulfillment of all terms of contract, timing, and payments to subcontractors regardless of funding provided by VIWMA.

The prime Contractor should include in the proposal an executed statement from each subcontractor affirming the following: "I have read and understand the RFP and final version of the proposal submitted by (Proposer)."

SECTION 8: PROPOSAL SUBMITTAL CONTENT

The proposal must contain the following:

1. Cover Letter & Executive Summary:
 - a. Firm Name, address, email, fax, and telephone
 - b. Type of Service for which the Firm is qualified.
 - c. Number of Years in Operation
 - d. Other relevant information as described in *Section 6.1* and *Section 9.1*
 - e. Enclosure Documents A, B, C, D, E
2. Key Personnel & Minimum Qualifications
 - a. Names/addresses of Principals of Firm.
 - b. Names of key personnel with experience of each and the length of time in organization.
 - c. Number of staff available for assignment. (Local & Off-Territory)
 - d. Organization Chart of Primary Contractor & Subcontractors (to include employees to be engaged and percentage of engagement)
 - e. Evidence of Meeting Professional Qualification Requirements
3. Required Documents
 - a. Copy of Corporate Documents (as outlined)
 - b. Certificate of Good Standing
 - c. Copy of Valid VI Business License (or proof of pending approval)
 - d. Copy of Valid Cage Number from Sam.gov
 - e. Workman's Compensation Insurance
 - f. Liability & Property Damage Insurance
 - g. Errors & Omission Insurance
 - h. SSN or EIN Number
 - i. Proof of Bonding
4. The Proposal

- a. Project Approach & Methodology
 - i. Describe how you will approach this project and availability to perform the services requested (See detail in Section 10)
 - b. Contract Management & Quality Control Plan
 - c. Project Schedule
 - d. Business Consideration (Acumen)
 - e. Contract Agreement
5. Past Project Experience
 - a. List of completed projects of similar type and estimated cost of each.
 - b. Current projects underway; scope; percentage completed to date and estimated cost of each.
 - c. Project References: (including a notarized written consent from the authorized representative which must include name, telephone number, e-mail address and facsimile number).
6. Cost Proposal Submittal (under separate cover)
 - a. Enclosure Document F
 - b. Design Cost (Survey, Architectural & Engineering {Civil, Electrical, Mechanical, Hourly Rates, etc.

The proposal shall identify all non-monetary terms and conditions associated with the services included in the proposal, such as the submitter's limitations on liability. During contract negotiations, the scope of work shall be fully defined; any changes shall be negotiated along with the Agreement, beginning with the draft contract agreement submitted in the proposal.

The following are additional matters which should be considered by the submitter relative to the content of each of the suggested sections of the proposal.

8.1 Cover Letter

- Should include at a minimum, a commitment by the submitter, if selected, to enter good faith negotiations with VIWMA.
- Must be signed by an officer of the submitting firm.
- Must be submitted with a Board Resolution giving said officer signatory authority.
- Should state the length of time (months) that the submitter will hold firm its prices.

8.2 Key Personnel & Professional Qualification Requirements

The Submitter shall Respond to the requests contained in **Sections 4 & 5** of this document.

8.3 Contract Management Plan

The Contract Management Plan should address the following topics:

- a. A listing of the specific individuals assigned to the Management Team and to Technical Support who the submitter will assign to the contract during the design phase and provide the résumés and experience of those individuals.
- b. A detailed staffing plan indicating the type and quantity of the various positions the submitter feels is necessary to provide the services required.

- c. The details of the incorporation of the design parameters into the project design. Specifically identify any additional services which should be provided but which exceed the scope of services requested herein.
- e. Changes or limitations to the general provisions listed in the draft agreement.

8.4 Project Schedule

All proposals must include a project schedule in Gantt chart or similar format showing key project milestones for the duration of the project. The schedule should start with the Notice to Proceed as the effective date, through acceptance of the 100% Final Bid Documents for the Construction Phase of the Project. This schedule will include at a minimum sufficient time to obtain permits and provide designs with WMA reviews and approvals. The VIWMA will assist in securing the necessary permits in a timely manner providing all legally required submittals have been met.

8.5 Cost Proposal Submittal

Proposals in response to this RFP will consist of two separate document submissions, **one providing methodology, approach and technical details** and **a separate submission providing cost information**. Cost proposals should include costs for the design, and separate costs for the construction of the facility. **One original copy of the cost proposal shall be submitted in a separate, sealed envelope or email. The proposal containing the cost proposal shall be stated on the outside of that proposal.** The cost proposal shall include the following:

Cost Proposal Assumptions

- a. Detailed listing of all proposed capital equipment
- b. Time & Employee Hourly Rates
- c. Other Rates & Fees as applicable
- d. Proposed Milestones/Deliverables & Projected Payment Schedule

8.6 Oral Interviews

Respondents may be required to participate in an oral interview. The oral interview will be a panel comprised of members of the selection committee. Respondent may only ask questions that are intended to clarify the questions that they are being asked to respond to. Each Respondent's time slot for oral interviews will be determined randomly. Respondents who are selected shall make every effort to attend. If representatives of the VIWMA have trouble on the part of any Respondent in scheduling a time for the oral interview, it may result in disqualification from further consideration.

SECTION 9: CONTRACTOR RESPONSIBILITIES

9.1 Permits and Regulations

The Contractor shall be responsible for identifying, obtaining, complying, and bearing all costs associated with any environmental or other permits or any regulations required for the design and construction of the facility, or to process or test, measure, treat, or dispose of any emissions, debris or effluents resulting from the Contractor's operations, activities, or equipment. HUD Section 3 compliance may be required.

9.2 Record Keeping and Reporting

The Contractor shall be required to maintain electronic and written records of all documents, correspondence, submittals, applications, and all other computer records of activities related to the contract. The Contractor's records shall be open for VIWMA inspection at any time during the Contractor's normal business hours, and the VIWMA reserves the right to perform spot monitoring of the Contractor's operations. VIWMA may also request copies of any record during the Contractor's normal business hours.

The Contractor shall always keep on site copies of the following:

- All permits and licenses shall be posted as required by applicable laws.

Except as noted here, all reports will be provided in written and electronic (digital) form and provided in hard copy and on a computer storage medium, using software approved in writing by the WMA. The Contractor will be required to immediately report any properly contain spills of fuels, lubricants or any hazardous liquids to the VIWMA and Local (DPNR) and Federal Regulatory Agencies (EPA, etc.), in accordance with each project's reporting requirements.

The Contractor will be liable for any fines resulting from such spills and shall be responsible for the mitigation of the area of the spill.

9.3 Health and Safety

The Contractor shall be responsible for complying with all laws and regulations associated with worker health and safety, for providing workers adequate training in safety and operations, and for maintaining a drug-free workplace. The training shall include training to handle spills of fluids and hazardous materials, fire, explosion, earthquakes, hurricanes, excessively heavy rain events and other natural events or disasters.

9.4 Non-Discrimination

The Contractor shall be responsible for complying with all laws and regulations associated with fair hiring practices, the creation of a non-discriminatory workplace and appropriate termination procedures.

The Contractor shall make all efforts to subcontract, hire and/or retain the services of Virgin Islands based businesses, corporations and individuals. The VI Department of Labor currently holds a list of individuals seeking employment and should be consulted first to fill any vacant positions both at start up and throughout the life of the contract.

9.5 Business Considerations

The submitter must discuss its position on such business issues as assumption of risk, repair and replacement of operating equipment, capital improvements and guarantees.

9.6 Contract Agreement

The WMA will prepare the contract agreement upon successful negotiations with selected submitter. However, a summary of some of the general provisions the WMA will require in any

final Professional Services Contract are as follows:

- The contract will be funded, in whole or in part, by EPA, FEMA and Community Development Block Grant – Disaster Recovery funds. Therefore, funding and payment of the contract will be based on requirements and availability of the EPA, FEMA and CDBG-DR funds by VIWMA. The selected Respondent is responsible for submitting all required documentation for payment to VIWMA. The selected Respondent is responsible for preparation and submittal of an application for payment and invoice, based upon a mutually agreed Schedule of Values (“SOV”). After the notice to proceed is issued, all subsequent contract payments will be based upon complete work. Further, a 10% retainage will be withheld from each payment. The selected Respondent shall allow enough time for the VIWMA to review and process payment requests.
- Each respondent must submit a valid CAGE number that is actively registered on SAM.GOV <https://www.sam.gov/SAM/pages/public/index.jsf>
- The Scope of Services to be rendered by the contractor.
- A provision for liability for the payment of fines and/or civil penalties levied against the contractor and/or the VIWMA by any regulatory agency having jurisdiction, as a result of failure to comply with the terms and conditions of any duly authorized permit, court order, administrative order, law, statute, ordinance, or of this contract, or for failures resulting from the contractor’s negligence during the period of the contract.
- A provision for compliance with all applicable laws and regulations regarding the design and construction of the facilities.
- A provision for indemnification of VIWMA, its agents, officers, assigns and employees from any loss or liability for claims, damages, lawsuits resulting from the contractor’s negligence and breaches during the period of the contract.
- A provision for comprehensive liability and errors and omissions insurance policies including the WMA as an additional insured for bodily injury and/or property damage, each in an amount of not less than two million dollars (\$2,000,000); certificates of such insurance policies shall be submitted to the VIWMA upon execution of the contract.
- A provision for the contractor’s payment of all taxes and charges, including unemployment insurance premiums, excise tax, gross receipt, social security, etc.
- A provision that the contractor shall provide a sufficient number of qualified personnel, including management, administrative, operational, technical, and clerical, who meet relevant legal requirements and industry standard experience regarding design and are capable and demonstrate experience necessary to design each project during the contract period.
- A provision that the contractor shall design all facilities so that odor, dust and noise shall be effectively controlled, and that no avoidable disruption of adjacent neighborhoods shall result. Including signage about construction and pedestrian safety.

- A provision for the term of the Contract between the VIWMA and the contractor to be **three (3) years or 1,095 Calendar Days. Two, one-year extension options will be available if the total contract amount is not expended by the contract end date.**
- A provision that the contractor shall make all arrangements to provide for the supply and construction/installation of capital equipment as requested and approved by the WMA and as set forth in the design as provided by the contractor. Ownership of the capital equipment will transfer to the WMA at the completion of the project.
- A provision for the termination of the contract if the level of performance is unsatisfactory to VIWMA.

9.7 General Federal Grant Requirements & HUD General Provisions

Because the contract is being funded with federal funds, the contract shall be governed by certain federal terms and conditions for federal grants, such as the Office of Management and Budget's ("OMB") applicable circulars and required federal contract clauses per 2 CFR Part 200 Appendix II (**Appendix II**). Respondent shall provide a description of experience with such grant requirements and affirmatively represent and certify that the respondent shall adhere to any requirements of applicable federal requirements. Any funds disallowed by any federal government entity shall be disallowed from fee or compensation to contractor.

Because the contract is being funded with HUD funds, the contract shall be governed by certain general HUD terms and conditions, attached hereto as HUD-Federal-Cross-Cutting-Measures (**Appendix III**).

9.8 Davis Bacon Act (DBA) 1931

Contractor shall be responsible for maintaining weekly certified payroll records which must include:

- Any wages paid to employees.
- Employee's name
- Last four digits of the employee's Social Security number
- The number of hours worked each day, and number of hours worked for the week.
- Employee's hourly rate of pay.
- Employee's job classification
- Any fringe benefits paid to employees.

During a week of no work, the payroll reporting form must be submitted the usual way with the insertion "NO WORK PERFORMED THIS WEEK" and "FINAL" on the last invoice.

The Act requires that contractors pay the prevailing wage, according to their skills, to their workers; failure to comply shall be reason for withheld payments, contract termination, and debarment from future federal contracts for up to three years.

9.9 Conflict of Interest

A submitter filing a proposal shall certify that no officer, agent or employee of WMA has a pecuniary interest in the proposal or has participated in contract negotiations on behalf of the Submitter; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Submitter for the same Request for Proposals; and that the Submitter is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.

A Respondent must also disclose any existing contractual work for the Territorial Government, whether directly or through a parent company, subsidiary company or associated company or independent contractor(s) hired by respondent; identify any potential conflict of interest, and must certify that Respondent nor any parent company, subsidiary company or associated company or contractual/independent contractor(s) hired by respondent has assisted with preparing this RFP.

9.10 DBE Program Provisions

DISADVANTAGED BUSINESS PARTICIPATION IN FEDERALLY FUNDED ASSISTED CONTRACTS

Pursuant to, 40 CFR, Part 33, Subpart C, Disadvantaged Business Enterprise (DBE) respondents that are not DBEs are strongly encouraged to consider partnering, or other joint venture arrangements, with certified DBE firms to achieve the prescribed goals and to give DBE firms the opportunity to participate. Respondents must document good faith efforts to provide meaningful participation by DBE firms. Willful and/or intentional violation of this obligation may result in the imposition of liquidated damages or other appropriate sanctions, including, without limitation, suspension of any future consideration with VIWMA and monetary payments based on the DBE goal shortfall.

9.11 Minority & Women-Owned Business Enterprise (M/WBE)

Respondents that are not M/WBEs are strongly encouraged to consider partnering, or other joint venture arrangements, with certified M/WBE firms to achieve the prescribed goals and to give M/WBE firms the opportunity to participate.

Respondents must document good faith efforts to provide meaningful participation by M/WBE firms. Willful and/or intentional violation of this obligation may result in the imposition of liquidated damages or other appropriate sanctions, including, without limitation, suspension of any future contracts with VIWMA and monetary payments based on the M/WBE goal shortfall.

VIWMA is interested in having at a minimum 20% of all work to be completed by a DBE Program and/or M/WBE. Respondents must document good faith efforts to provide meaningful participation by these firms. All approved DBE Program Businesses can be identified via the USVI Department of Public Works.

SECTION 10: ELIGIBILITY REQUIREMENTS

10.1 Licensing Requirements

A contract will not be issued, nor a Notice to Proceed given, to any firm or individual doing business in the Virgin Islands to perform work with the VIWMA until documentary evidence is submitted that said firm or individual has a valid V.I. Architectural/Engineering Business License to do similar business in the Virgin Islands. If a contractor does not have the Business License prior to proposal submittal, documentation must be submitted with the proposal showing the Vendor has submitted the required documentation to receive the License from VIDLCA. Submitters must submit a copy of a valid V.I. business license within ten (10) working days after award of the contract. Failure to provide the required documentation within the allotted time frame shall result in vendor disqualification.

All Submitters bidding as Joint-Ventures which do business in the Virgin Islands must be licensed as a Joint-Venture in the Virgin Islands.

10.2 Requirements of Legal Entities

Respondents that are corporations, partnerships, or any other legal entity, domestic or foreign, shall be properly registered to do business in the area in which they are incorporated at the time of the submission of their responses to this RFP. Such respondents shall attach a certificate of good standing from the Secretary of State in the area in which they are incorporated in their proposals. Upon contract execution, the successful Respondent will show evidence of its applications to obtain any required licenses or certificates required to do business in the USVI.

10.3 Required Documents

The successful respondent will have ten (10) days from the day of notice of selection is received to submit the following documents:

- A. **Corporate Documents** - The successful respondent will be required to provide a copy of their Corporate Documents.
 - a. Provide a Copy of Corporate Documents
 - i. Corporations
 - 1. Copy of Articles of Incorporation
 - ii. Limited Liability Company (LLC)
 - 1. Copy of Articles of Organization
 - 2. Copy of Operating Agreement
 - iii. Sole Proprietor
 - 1. Copy of Trade Name Certificate
- B. **Letter of Good Standing of Corporation or Certificate of Existence if LLC** – The successful respondent will be required to provide a copy of their Letter of Good Standing or Certificate of Existence. A copy of the receipt that demonstrates evidence of filing the company's Annual Report of June 30th of the current Year from the Office of Lieutenant Governor will be acceptable as well.

- C. **Workman's Compensation Insurance** – The successful respondent will be required to provide proof of Workman's Compensation Insurance.
- D. **Liability & Property Damage Insurance** - The successful respondent will be required to obtain and have in place Liability Insurance in an amount not less than **\$2,000,000.00** combined single limits for bodily injury, wrongful death, and property damage. Proof of coverage must be provided prior to the issuance of the related contract.
- E. **Errors & Omissions Insurance** - The successful respondent will be required to obtain and have in place Errors & Omissions Insurance for A/E Services of not less than **\$2,000,000.00**. The VIWMA shall be the additional named insured.
- F. **Social Security Number (SSN) or Employer Identification Number (EIN)** - The successful respondent will be required to provide an official copy of their SSN or EIN.
- G. **CAGE Number** – The successful respondent will be required to submit a Valid CAGE Number that is actively registered on SAM.GOV <https://www.sam.gov/SAM/pages/public/index.jsf>
- H. **VI Business License** – The successful respondent will be required to submit proof the said firm or individual has a valid V.I. Architectural & Engineering Business License to do similar business in the Virgin Islands.

10.4 Workers' Compensation

Within ten (10) working days after notification of proposal acceptance, the successful submitter must provide a copy of their certificate indicating that the firm and its agents are covered by Workmen's Compensation Insurance.

These documents will be required prior to issuance of a contract. Failure to provide the certificates within Ten (10) Working Days after notification of acceptance of the submitter's proposal may result in the proposal being deemed as non-responsive and the submitter may be immediately disqualified with no further consideration given for potential awarding of the contract.

SECTION 11: PROPOSAL FORMAT

Except for specialized charts, drawings, or figures, all pages will be 8.5 x 11-inches with 1-inch margins and a minimum of 12-point font. *Total proposal length shall not exceed 50 pages, including statement of qualifications, technical and cost proposals.*

Supporting material such as corporate brochures and equipment descriptions will not be counted in the 50 pages. The cover page of the proposal must include the title of the proposal and indicate that the proposal is in response to the "Request for Proposals to"

Architectural & Engineering Design and Consulting Services for Mangrove Wastewater Treatment Facility

and shall include an individual's name and title representing the submitter as a point of

contact (with addresses, phone and fax numbers, and email addresses), and the name, title, signature, and contact information of someone in the submitter's organization with the authority to bind the organization (See sample cover sheet in *Enclosure Document A*).

The sealed envelope/document containing the proposals must have the following information written on the outside of the envelope:

SEALED PROPOSALS-DO NOT OPEN
(Name of Submitter's Authorized Official)
(Company Name of Submitter)
(Mailing Address of Submitter)
(Telephone Number of Submitter)
(Fax Number of Submitter)

The Cost Proposal document (sealed) shall be similarly denoted.

Normal business hours for the VIWMA Division of Procurement and Property are **8:00 a.m. to 5:00 p.m. Atlantic Standard Time**, (no daylight savings time). *Please note that express or overnight services to the Territory have variable reliability.* Therefore, submitters shall be responsible for delivery of their proposals to the VIWMA Division of Procurement and Property before the date and time set for the closing of this RFP.

To be considered for award, the bid package shall meet the following requirements. Failure to meet the requirements as outlined may disqualify the respondent.

Main Envelope/Package (Labeled "Originals" or "Copy 1, 22") Sub-Envelopes/Packages to include:

11.1 Sub-Envelope/Package 1

Cover Letter – Complete Enclosure Document A

- The cover letter should be on the company's official business letterhead with contact information and must be signed by an officer of the organization that is authorized to bind the company contractually to all the commitments made in their submittal.
- The letter should acknowledge the receipt of all addenda.
- It shall state, if awarded the contract, that the firm will be solely responsible for all aspects of the engagement including any portion that may be performed by its subcontractors, if any.
- It should make a positive commitment to perform the work required as specified to industry standards of workmanship and in a professional manner.
- It should also state that the bid package will remain in effect for a period of 90 days from the submission deadline and thereafter, until the firm withdraws it, or a contract is approved and executed, or the procurement is canceled, whichever occurs first.
- Confirmation that the firm has not engaged in any unethical practices within

the past five (5) years.

- The Proposer must also disclose, and identify, any existing contractual work for the Territorial Government, whether directly or through a parent company, subsidiary company or associated company or independent contractor(s) hired by respondent; identity any potential conflict of interest, and must certify that respondent nor any parent company, subsidiary company or associated company or contractual/independent contractor(s) hired by respondent has assisted with preparing this RFP.

Executive Summary

- A summary of the Respondent's qualifications.
- A brief statement of the Respondent's understanding of the scope of work to be performed.
- Ability to meet the overall requirements in the timeframes requested by VIWMA.
- A brief statement reflecting the Respondent's understanding of the scope of work to be performed.
- Confirmation that the Respondent has any appropriate state business license(s) required for this proposal, or, if allowed by law, will obtain such business license.
- Confirmation that the Respondent has not had a record of substandard work within the past five (5) years.
- Confirmation that the Respondent has not engaged in any unethical practices within the past five (5) years.
- Confirmation that, if awarded a contract, the Respondent acknowledges its complete responsibility for the entire contract, including payment of all charges resulting from the contract.
- Confirmation that Respondent has adequate financial resources for performance or can obtain such resources as required during performance.
- Has a written agreement with any person or subcontractor listed in the proposed project staff or team.
- Provide a brief statement describing the adequacy of the Respondent's financial capacity to handle the requirements of this RFP.
- Any other information that the Respondent feels appropriate.

Non-Collusive Affidavit – Complete **Enclosure Document B**. The form must be notarized.

Debarment Certification Form – Complete **Enclosure Document C**.

Contractor's Qualifications Statement Form – Complete **Enclosure Document D**. For the Reference Section of the form, provide three (3) references for the most recent, relevant work comparable to the scope requested in this RFP and who would be willing to discuss your company's competency and performance must be provided. If you currently have more than three (3) references, a client listing with contact information should be provided as well. At a minimum, one of the three (3) references must be for the prime Contractor.

Contract Document Checklist Form – Complete **Enclosure Document E** and submit your current Business License. For this section, Respondent must provide evidence that the company is licensed to provide the services requested. The Business License must be relevant to the Scope of Work for this solicitation.

Firm Background/Credentials – Provide the resumes of the key staff that will perform the work and any other documentation that demonstrates their qualifications, including degrees, licenses, certifications, and years of relevant experience.

Proposal - Provide a synopsis of your approach to managing the outlined scope of work, proposed schedule for staff and overall management style for achieving the Scope of Work. Proposal content shall include:

Summary

- Provide a summary including a description of the respondent's mission, and an explanation of the types of services the respondent provides that relate to this RFP.
- Briefly describe any significant changes to the management and/or structure of the respondent that are related to the work contained in this RFP, including any mergers that occurred in the last five (5) years.
- The name, address, telephone, fax, and email of the respondent should be included. The Respondent shall provide its office locations, number of full-time employees, date of incorporation, and number of years providing A/E Services; noting years related to CDBG-DR, and other disaster recovery services.

Experience and Qualifications

- Provide a summary of the types of services the Respondent offers that relate to this RFP.
- Provide specific details on any previous experience with related disaster recovery services.
- Proposals must demonstrate that the respondent has each of the necessary minimum qualifications listed in this RFP and is able to carry out each of the specific Tasks and Deliverables identified in this RFP.
- Respondents should provide detailed information about the experience and qualifications of their staff who are considered key to the success of the project.
- Respondents should demonstrate that all proposed staff have the requisite necessary experience and knowledge to successfully implement and perform the tasks and services under this RFP.
- Provide at least three (3) examples of current or past experiences for the Respondent and for any partners or subcontractors. At a minimum, past experiences must include

the experiences related to the references provided on Enclosure Document D, including one of the three (3) experiences must be for the prime Contractor. Each experience should include the client's name, main point of contact, title, and a description of the services provided.

- If the respondent will be subcontracting or partnering for any portion of the work, please also summarize the qualifications and experience of the subcontractor/partner's relevant staff and attach any contracts or agreements pertaining to the proposal.
- Any subcontractor included in the Proposal must have agreed in writing to being included in the Respondent's proposed project staff or team. Any such written agreement must be produced to VIWMA upon request. Any financial terms and personally identifying information (i.e., social security number) may be redacted from production to VIWMA.

Organizational Chart

- Respondent shall submit an organizational chart detailing the identity of each staff member who shall perform the services required under this contract. Specifically identify people currently employed by the Respondent who will serve in key roles listed in the organizational chart.
- In addition, for any staffing functions for which specific roles have not been provided in this RFP, the respondent should submit a list, describe, and discuss.
- Address the need for specific roles to perform certain functions and provide an organizational chart that shows how and by whom these functions will be performed.

Approach & Methodology

- Describe the Respondent's understanding of the nature of the Scope of Services and how its Proposal will best meet the needs of VIWMA.
- Explain how the respondent will achieve the goals, objectives, tasks, and deliverables outlined.
- Provide any relevant recommendations to improve the process flow to increase processing speed and efficiency, and to avoid waste, fraud, and abuse.
- Proposals should address a Respondent's anticipated approach and capability to coordinate with other providers performing services for the project.
- Proposals must demonstrate knowledge of local communities and community specific needs, including experience with writing complete specifications as they relate to concrete, masonry and underground structures similar to the standard structures in the Territory.
- Describe the proposed mechanisms for delivering services.
- Describe the Respondent's strategy for ensuring collaborative, consistent and productive communication with VIWMA and other Project contractors.
- Describe the strategy for recruiting and hiring any subcontractors that are essential to the Project's success but have not yet been identified. Additionally, describe how the Proposer will work with and assist in managing the selected subcontractors.
- If the Respondent intends to subcontract for portions of the work, the Respondent shall identify in its proposal any subcontractor relationships and include specific

designations of the tasks to be performed by the subcontractor. The prime Contractor shall be the single point of contact for all subcontract work. Every subcontract shall incorporate and follow the terms of the contract between the prime Contractor and VIWMA.

- Describe the strategy for preventing fraud and abuse, and for complying with state and federal guidelines.

Timeline and Staffing Plan

- The Respondent shall provide a timeline for the execution of services as detailed in the RFP.
- The Respondent should demonstrate their ability to adequately staff and scale each functional area to maintain agreed upon service levels from initial start-up and throughout the life of the Program.
- The Respondent's staffing plan shall specifically include the required number of personnel, role and responsibilities of each person on the project, their planned level of effort, their anticipated duration of involvement, and their on-site availability.
- Staffing plan shall include a plan for Section 3 compliance, Equal Employment Opportunity and Minority and Women Owned Business Enterprise (M/WBE) utilization.
- Clearly identify the number of staff that will need to be hired, the process of hiring them, and how they will be trained. Indicate if any work will be subcontracted to other partners.

Management & Quality Assurance / Quality Control Plan

- The Respondent shall provide detailed information on its management plan for the services and its quality assurance / quality control procedures associated with the scope of work.
- Outline procedures for ensuring compliance with all federal and state requirements, including but not limited to PA and HMGP eligibility requirements, hiring and contracting requirements, federal and state labor standards, and M/WBE compliance.

11.2 Sub-Envelope 2

Bid Sheet – Complete Enclosure Document F. All bid pricing must be valid for 90 days from the submission deadline and thereafter until the company withdraws it, or a contract is approved and executed, or the procurement is canceled, whichever occurs first. This includes an hourly rate and other expected reimbursable costs regarding the contract. The Respondent may also provide a comprehensive write-up regarding project cost. This will be used to establish a baseline for negotiation with bidders who have been deemed acceptable based on the criteria of this solicitation.

Each respondent must adhere to the requirements of this section relative to the proposal package content and format in order to simplify the review process and facilitate the maximum degree of comparison. Respondents may be subject to a best and final offer process should the responses preclude comparability. Respondents should ensure that their proposal package closely follows the sequence and organizational outline described in this section.

SECTION 12: COMPLETENESS OF PROPOSAL

All proposals (and all copies) must be complete by the RFP submission deadline. Minor non-substantive corrections may be accepted, if in the opinion of the WMA they are warranted, after the submission deadline.

SECTION 13: CONSIDERATION OF PROPOSAL

The VIWMA Executive Director shall represent and act for VIWMA in all matters pertaining to the scope of services and contract in conjunction therewith. **This RFP does not commit the VIWMA to the award of a Contract, nor pay any costs incurred in the preparation, submission of proposals or VIWMA requests for revisions of the proposal in anticipation of a contract. VIWMA reserves the right to reject any or all proposals, and to disregard any informality and/or irregularity in the proposal when, in its opinion, the best interest of the VIWMA will be served by such action.** The WMA may require the submitter selected to participate in negotiations by providing price, technical, or other revisions of their proposals as may result from or be required by negotiations. Proposals failing to provide some of the items in Section 7 - Submittal Contents shall not be rejected per se but any deviations from the scope must be clearly noted. Submission to the WMA of any type of proposal in response to this RFP indicates acceptance of these terms.

SECTION 14: WITHDRAWAL OF PROPOSAL

A proposal may be withdrawn at any time prior to the time specified as the closing time for acceptance of proposals. However, no proposal shall be withdrawn or canceled for a period of thirty (30) days after said closing time for acceptance of proposals nor shall the successful provider withdraw or cancel or modify his proposal, except at the request of WMA after having been notified that said proposal has been accepted by VIWMA. Submitters agree to hold their offer, including pricing, firm for at least **90 days** after the proposal submission deadline.

SECTION 15: CONTRACT TIME PERIOD

The contract period shall be three (3) years, set in the contract as 1,095 calendar days, and will necessitate a monthly payment schedule based on work completed with a 10% retainage held each month. A final payment and release of retainage will then be made upon project completion and acceptance by the Authority. Two one-year extension options will be included as optional if the total contract amount is not expended by the contract end date.

SECTION 16: PROPOSAL EVALUATION/SELECTION PROCESS

VIWMA will evaluate all Proposals that are received in a proper and timely manner to determine whether they meet the submission requirements. Awards are made to the most responsive bidder that provides the proposal that is most advantageous to VIWMA, considering such factors as the Bidder's ability to perform the work the Bidders' past experience, time of delivery, etc. and not solely the lowest price.

VIWMA, at its sole discretion, will determine which Proposal best satisfies its requirements. All Proposals deemed to be responsive to the requirements of this RFP will be evaluated and scored for technical qualities and price. Proposals that are materially deficient in meeting the submission requirements of this RFP or have omitted material documents may be eliminated

from consideration at the sole discretion of VIWMA. The evaluation process will include separate technical and price evaluations and will be conducted as set forth herein.

VIWMA reserves the right to award contracts based on initial proposals received, without discussion; therefore, the Respondent's initial proposal should contain its best technical and price terms.

The Selection Committee will consist of VIWMA officials and others, as deemed appropriate by VIWMA, and will be responsible for the recommendation of the selection of the Contractor. The final approval of the selection of the Contractor and the fees to be paid shall be made by the WMA Governing Board.

Proposal Selection Criteria

The following criteria will be used by the VIWMA's Selection Committee in evaluating proposals submitted in response to this RFP.

Evaluation Factors	Total Points
Technical	
Qualifications	25
Responsiveness, Project Approach & Resource Availability	25
Previous Project Experience	20
Oral Interview	10
Pricing	
Pricing	20
Total	100

SECTION 17: GLOSSARY

Submitter: Name of a developer, contractor, partnership, joint venture, manufacturer, corporation, individual or other entity which submits a proposal to the WMA.

Contractor: Name of a developer, contractor, partnership, joint venture, manufacturer, corporation, or other entity that is granted a contract as a result of this RFP.

VIWMA: Acronym for the Virgin Islands Waste Management Authority of the Virgin Islands

Proposals: Written submission in response to this RFP.

RFP (Request-for-Proposals): A solicitation of qualified submitters for written proposals to complete Architectural & Engineering Design and Consulting Services on a Task Order Basis - Territory Wide.

SECTION 18 : ENCLOSURES & APPENDICES

Enclosure Document A : RFP Cover Letter

Enclosure Document B : Non-Collusion Affidavit

Enclosure Document C : Debarment Certification Form

Enclosure Document D : Respondent's Qualification Statement

Enclosure Document E : Contract Document Checklist

Enclosure Document F : Base Bid Sheet

Appendix I: HUD Rider CFR 200

Appendix II: HUD Federal Cross Cutting Measures

ENCLOSURE DOCUMENT A
VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY
RFP COVER LETTER

RESPONDENT

Name: _____

Address: _____

Tax Identification Number: _____

RESPONDENT'S CONTACT PERSON

Name: _____

Title: _____

Telephone: _____

Email Address: _____

REQUEST FOR PROPOSAL INFORMATION

RFP Number: _____

RFP Project Name: _____

SCHEDULE OF ADDENDA(I) or (We) acknowledge receipt of the Addenda to the RFP Package hereinafter named, for the project(s) included in this RFP and declare that (I) or (We) accept these Addenda and that every change is included in this proposal.

Addendum Number _____	Date _____
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Addendum Number _____	Date _____
-----------------------	------------

Addendum Number _____	Date _____
-----------------------	------------

Addendum Number _____	Date _____
-----------------------	------------

Addendum Number _____	Date _____
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RESPONDENT'S AUTHORIZED REPRESENTATIVE

Name: _____

Title: _____

Signature: _____ Date: _____

ENCLOSURE DOCUMENT B
VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY
Non-Collusion Affidavit

_____, being first duly sworn, deposes and says that (1) he/she is [owner, partner, officer, representative, or agent] of: _____
_____ the bidder that has submitted the attached bid.

(2) He/She is duly informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid.

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

(4) Neither the said bidder nor any of its officers, partners, owners, agents, representative, ex-employee or parties in interest, including the affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against The Virgin Islands Waste Management Authority or any person interested in the proposed contract, and

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

(Name of Respondent, Name of Corporation, LLC, or Sole Proprietor)

Subscribed and sworn to before me on/in the Island/State of _____, this
_____ day of _____ 2024, by _____ of legal age,
_____ and personally known to me.

(Trade or Corporation)

(Seal)

Notary Public

ENCLOSURE DOCUMENT C
VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY
DEBARMENT CERTIFICATION FORM

Certification Regarding Debarment, Suspension and Ineligibility

(1) The Respondent certifies, by submission of this solicitation, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any federal or local programs in the Territory or any Federal department or agency.

(2) Signing this Certification without disclosing all pertinent information about a debarment or suspension shall result in rejection of the offer or cancellation of a contract. The VIWMA may also exercise any other remedy available by law.

(3) Where the Respondent is unable to certify any of the statements in this certification, such Respondent shall attach an explanation to this solicitation.

Name of Authorized Representative: _____

Title of Authorized Representative: _____

Signature: _____ Date: _____

Subscribed and sworn to before me on/in the Island/State of _____, this.
_____ day of _____, 2024, by _____ of legal age, _____
_____ and personally, known to me.
(Trade or Corporation)

(SEAL)

Notary Public

ENCLOSURE DOCUMENT D
VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY
RESPONDENT QUALIFICATIONS STATEMENT

Name of License Holder: _____
Name of Company/DBA (if any): _____
Legal Status (check one): ☐Corporation ☐LLC ☐Sole Proprietorship ☐Partnership
Business Location (Office): _____
Mailing Address: _____
Telephone Number: _____ Fax Number: _____ Email: _____
Website address (if any): _____

Do you have a current USVI Business License? ☐Yes ☐No
Number of Years licensed to conduct business in the USVI: _____
Type of License(s): _____
Number of Design/Builds completed in the last 5 Years _____, Average value of these
Contracts \$: _____
Do you have a plan to use Subcontractors? ☐Yes ☐No If yes, company: _____

Have you ever failed to complete a project, been fired, sued by one of your clients and/or found
in default of contract terms? ☐Yes ☐No

If yes, explain on another sheet if a Performance Bond or other means were used to resolve the
issue and the circumstances and the outcome.

Are there or have there been any Claims, Arbitration, Judgments or Liens against you?
☐Yes ☐No

If yes, explain on another sheet the circumstances and outcome.

List of three non-VIWMA references that can be contacted for their input concerning your
abilities:

1) Client Name: _____ Contact Number: _____
2) Client Name: _____ Contact Number: _____
3) Client Name: _____ Contact Number: _____

List your current Projects under Contract (Project Title or Clients Name), Value (Contract Value)
and Percentage of Completion:

1) Client Name: _____ Value: _____ % _____
2) Client Name: _____ Value: _____ % _____
3) Client Name: _____ Value: _____ % _____

(If you have more contracts, please list them on separate sheet)

Respondent shall certify that the above information is true and shall grant permission to VIWMA
to contact the above-named person or otherwise verify the information.

ENCLOSURE DOCUMENT E
VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY
CONTRACT DOCUMENT CHECKLIST

Name of Business: _____

Contact Person: _____

Telephone Number: _____

Email Address: _____

EIN Number: _____

CAGE Number: _____

- | | |
|--|----------------------------------|
| <input type="checkbox"/> Current USVI Business License | Expiration Date ____/____/20____ |
| <input type="checkbox"/> Government Insurance Coverage/Workman's Comp. | Expiration Date ____/____/20____ |
| <input type="checkbox"/> Insurance | |
| <input type="checkbox"/> Certificate of General Liability & Endorsement | Expiration Date ____/____/20____ |
| <input type="checkbox"/> Proof of Automobile Insurance | Expiration Date ____/____/20____ |
| <input type="checkbox"/> Certificate of Professional Liability & Endorsement | Expiration Date ____/____/20____ |
| <input type="checkbox"/> Errors & Omissions Insurance | Expiration Date ____/____/20____ |
| <input type="checkbox"/> Malpractice Insurance | Expiration Date ____/____/20____ |

The Insurance Policy shall name the VIWMA as a Certificate Holder and an Additional Insured via an endorsement as follows:

Virgin Island Waste Management Authority
7410 Estate Bovoni, Bay 2
St. Thomas, USVI 00802

Business Formation Documents

For all business entities, please submit a Trade Name Certificate (if applicable) in addition to the following:

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Articles of Incorporation & By Laws |
| | <input type="checkbox"/> Certificate of Resolution |
| | <input type="checkbox"/> Certificate of Authority/ Good Standing |
| <input type="checkbox"/> LLC | <input type="checkbox"/> Articles of Organization |
| | <input type="checkbox"/> Certificate of Authority/ Good Standing |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Partnership Agreement |
| | <input type="checkbox"/> Certificate of Authority/ Good Standing |
| <input type="checkbox"/> LP, LLP, LLLP | <input type="checkbox"/> Certificate of Limited Partnership or Statement of Qualifications |
| | <input type="checkbox"/> Certificate of Authority/ Good Standing |
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Tradename Certificate |

ENCLOSURE DOCUMENT F
VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY
BASE BID SHEET

The undersigned contractor proposes to furnish all labor, tools, materials, equipment, miscellaneous supplies and incur any other costs as may be required to perform the scopes of work, subject to all the conditions set forth in the project scope of work.

Instructions: For Section 1, the respondent should complete the position, Number of Staff, fully burdened Hourly Rate, Estimated Hours per Week, Materials and Equipment, and calculate the Estimated Total in the chart below. For Section 2, the respondent should provide the weekly or monthly amount as requested, times the corresponding number of weeks or months to provide the estimated total.

These costs are being provided for the purpose of evaluating bids and determining reasonable costs for these items. Depending on the structure of the winning bidder's response, not all costs may ultimately be included in the final contract.

POSITION	# OF STAFF	HOURLY RATE	ESTIMATED HOURS PER WEEK	ESTIMATED TIMING	ESTIMATED TOTAL
SECTION 1 – HOURLY RATES					
Design					
Senior Project Manager	1				
Project Manager	1				
Subject Matter Expert	1				
QA/QC Manager	1				
Senior Engineer (Registered)	1				
Civil Engineer	1				
Structural Engineer	1				
Senior Civil Designer	1				
Civil Designer	1				
Technician I	1				
Technician II	1				
Clerical/Administrative	1				
Analyst	1				
Senior GIS Analyst	1				
GIS Analyst	1				
CADD Technician	1				
Mechanical Engineer	1				
Mechanical Designer	1				
Electrical Engineer	1				
Estimator	1				
Project Controls	1				
Subject Matter Expert (Surveying & GIS)	1				
Professional Land Surveyor	1				
Surveyor	1				
Field Inspector	5				
Senior Geotechnical Engineer	1				
Senior Geotechnical Project Manager	1				

Geotechnical Project Manager	1				
Principal Architect	1				
Architectural Project Manager	1				
Licensed Interior Designer	1				
Associate Architect	1				
Licensed Interior Designer	1				
Associate Architect	1				
Architectural Designer	1				
Drafting Technician	1				
Senior Administrative	1				
Registered Geologist	1				
Project Geologist	1				
Staff Geologist	1				
Principal Scientist	1				
Senior Scientist	1				
COST ESTIMATOR					
Other Anticipated Position(s):					
Other Anticipated Position(s):					
Other Anticipated Position(s):					
SUBTOTAL-POSITIONS	N/A	N/A	N/A	N/A	
SECTION 2 – OTHER POSITIONS					
Travel, Housing, and Per Diem (weekly lump sum)					
Other Necessary Costs (Itemized on separate sheet)					
SUBTOTAL– OTHER EXPENSES	N/A	N/A	N/A	N/A	
TOTAL COST FOR ALL SERVICES	N/A	N/A	N/A	N/A	

APPENDIX 1

HUD GENERAL PROVISIONS (“HUD RIDER”)

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development (“HUD”). In addition, Contractor/Subcontractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at <http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>.

1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

2. STATUTORY AND REGULATORY COMPLIANCE

Contractor/Subcontractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2017 (Pub. L. 115-56) and the Bipartisan Budget Act of 2018 (“BBA”), (Pub. L. 115-123), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

3. BREACH OF CONTRACT TERMS

VIHFA reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

4. REPORTING REQUIREMENTS

The Contractor/Subcontractor shall complete and submit all reports, in such form and according to such schedule, as may be required by VIHFA. The Contractor/Subcontractor shall cooperate with all VIHFA efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507.

5. ACCESS TO RECORDS

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during

normal business hours, access to any work product, books, documents, papers, and records of the Subcontractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

6. MAINTENANCE/RETENTION OF RECORDS

All records connected with this contract will be maintained in a central location and will be maintained for a period of at least 3 years following the date of final payment and close-out of all pending matters related to this contract.

7. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Contractor/Subcontractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

8. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

9. ENERGY EFFICIENCY

The Contractor/Subcontractor shall comply with mandatory standards and policies relating to energy efficiency issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

10. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Contractor/Subcontractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be

denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor/Subcontractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

12. SECTION 504 OF THE REHABILITATION ACT OF 1973

The Contractor/Subcontractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 94), as amended, and any applicable regulations.

The Contractor/Subcontractor agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

13. AGE DISCRIMINATION ACT OF 1975

The Contractor/Subcontractor shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

14. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Contractor/Subcontractor represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs subject to 2 C.F.R. part 2424.

15. CONFLICTS OF INTEREST

The Contractor/Subcontractor shall notify VIHFA as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 (or 84.42, if applicable)). The Contractor/Subcontractor shall explain the actual or potential conflict in writing in sufficient detail so that the State is able to assess such actual or potential conflict. The Contractor/Subcontractor shall provide VIHFA any additional information necessary for VIHFA to fully assess and address such actual or potential conflict of interest. The Contractor/Subcontractor shall accept any reasonable conflict mitigation strategy employed by VIHFA, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

16. SUBCONTRACTING

When subcontracting, the Contractor/Subcontractor shall solicit for and contract with such Contractor/subcontractors in a manner providing for fair competition. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a *brand name* product instead of allowing *an equal* product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

The Contractor/Subcontractor represents to VIHFA that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

The Contractor will include these HUD General Provisions in every subcontract issued by it so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

17. ASSIGNABILITY

The Contractor/Subcontractor shall not assign any interest in this contract and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of VIHFA.

18. INDEMNIFICATION

The Contractor/Subcontractor shall indemnify, defend, and hold harmless VIHFA and its agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Contractor/Subcontractor in the performance of the services called for in this contract.

19. COPELAND “ANTI-KICKBACK” ACT

Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland “Anti-Kickback Act” of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The Contractor shall comply with all applicable

“Anti-Kickback” regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The Contractor/Subcontractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. part 5).

All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable Federal laws and regulations pertaining to labor standards.

21. DAVIS-BACON ACT

(Applicable to construction contracts exceeding \$2,000 when required by Federal program legislation)

The Contractor/Subcontractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. part 5).

All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

22. TERMINATION FOR CAUSE

If, through any cause, the Contractor/Subcontractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor/Subcontractor shall violate any of the covenants, agreements, or stipulations of this contract, VIHFA shall thereupon have the right to terminate this contract by giving written notice to the Contractor/Subcontractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor/Subcontractor under this contract shall, at the option of VIHFA, become VIHFA's property and the Contractor/Subcontractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor/Subcontractor shall not be relieved of liability to VIHFA for damages sustained by VIHFA by virtue of any breach of the contract by the Contractor/Subcontractor, and the VIHFA may withhold any payments to the Contractor/Subcontractor for the purpose of set-off until such time as the exact amount of damages due to the VIHFA from the Subcontractor is determined.

23. TERMINATION FOR CONVENIENCE

The VIHFA may terminate this contract at any time by giving at least 30 days' notice in writing to the Contractor/Subcontractor. If the contract is terminated by VIHFA as provided herein, the Contractor/Subcontractor will be paid for the time provided and expenses incurred up to the termination date.

24. SECTION 503 OF THE REHABILITATION ACT OF 1973

The Contractor/Subcontractor shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

Equal Opportunity for Workers With Disabilities

A. The Contractor/Subcontractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor/Subcontractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the Subcontractor;
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the contractor including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

B. The Contractor/Subcontractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

- C. In the event of the Contractor/Subcontractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- D. The Contractor/Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's/Subcontractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor/Subcontractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor/Subcontractor may have the notice read to a visually disabled individual or may lower the posted notice so that it might be read by a person in a wheelchair).
- E. The Contractor/Subcontractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor/Subcontractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- F. The Contractor/Subcontractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor/Subcontractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

25. EXECUTIVE ORDER 11246

The Contractor/Subcontractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

During the performance of this contract, the Contractor/Subcontractor agrees as follows:

- A. The Contractor/Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor/Subcontractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. The Contractor/Subcontractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor/Subcontractor shall state that

all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

- C. The Contractor/Subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- D. The Contractor/Subcontractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Contractor/Subcontractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- F. The Contractor/Subcontractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- G. In the event of the Contractor's/Subcontractor's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Contractor/Subcontractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- H. Contractor/Subcontractor shall incorporate the provisions of A through G above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such contractor/subcontractor. The Contractor/Subcontractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor/Subcontractor may request the United States to enter into such litigation to protect the interests of the United States.

26. CERTIFICATION OF NONSEGREGATED FACILITIES

The Contractor/Subcontractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any

location under its control where segregated facilities are maintained. The Contractor/Subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

27. CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS

The Contractor and all its subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 1857 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*, and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 15 and 32, as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- A.** A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.
- B.** Agreement by the Subcontractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C.** A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- D.** Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

28. LOBBYING

The Contractor/Subcontractor 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 Contractor/Subcontractor, 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 any 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 Contractor/Subcontractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Contractor 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.

29. BONDING REQUIREMENTS

The Contractor/Subcontractor shall comply with VIHFA bonding requirements, unless they have not been approved by HUD, in which case the Contractor/Subcontractor shall comply with the following minimum bonding requirements:

- (1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- (2) *A performance bond on the part of the Contractor/Subcontractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's/Subcontractor's obligations under such contract.
- (3) *A payment bond on the part of the Contractor/Subcontractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

30. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

- 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 C.F.R. 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*/Subcontractor agrees to send to each labor organization or representative of workers with which the *Contractor*/Subcontractor 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 C.F.R. 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 C.F.R. part 135. The Contractor will not subcontract with any subcontractor where the subcontractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.
- E. The *Contractor*/Subcontractor will certify that any vacant employment positions, including training positions, that are filled: (1) after the *contractor*/subcontractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the *Contractor*/Subcontractor's obligations under 24 C.F.R. part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. 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).

31. FAIR HOUSING ACT

Contractor/Subcontractor shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

32. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended, was signed with the intent of reducing wasteful government spending and providing citizens with the ability to hold the government accountable for spending decisions. 2 C.F.R. § Part 170 outlines the requirements of recipients' in reporting information on subawards and executive total compensation under FFATA legislation. Any non-Federal entity that receives or administers Federal financial assistance in the form of: grants, loans, loan guarantees, subsidies, insurance, food commodities, direct appropriations, assessed and voluntary contributions; and/or other financial assistance transactions that authorize the non-Federal entities' expenditure of Federal fund, is subject to these requirements.

Prime contract awardees and prime grant awardees are required to report against subcontracts and subgrants awarded in the FFATA Subaward Reporting System (FSRS), the reporting tool for Federal prime awardees. This information reported will then be displayed on a public and searchable website: www.USASpending.gov.

33. PROCUREMENT

The Uniform Guidance procurement requirements (2 C.F.R. § Part 200, Subpart D) went into effect on July 1, 2018. These requirements are applicable to CDBG-DR funded projects, or as provided by 83 Federal Register 5844 VI A(1)(b)(2) permits a state grantee to elect to follow its own procurement policy. These policies and procedures ensure that Federal dollars are spent fairly and encourage open competition at the best level of service and price.

34. CHANGE ORDERS TO CONTRACTS

Change orders are issued when the initial agreed upon pricing or work to be completed requires modification. First, the contractor must complete a Change Order Request Form. This form and supporting documentation must be delivered to the Project Manager for review. Each change order must have a cost analysis. Once the Project Manager approves the change order, it is returned to the contractor for execution. Change orders are only invoiced on the final draw and categorized as "change order." The amount listed on the invoice must match the previously approved amount and must be cost reasonable. The Project Manager is responsible for verifying cost reasonableness. Verification documentation for cost reasonableness becomes an attachment to the change order.

35. ENVIRONMENTAL REVIEW

Every project undertaken with Federal funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 C.F.R. § Part 58- ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any Federal funds can be accessed for program-eligible activities.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The HUD environmental review is designed to produce program specific environmental review procedures in a program that can vary greatly in terms of scope of work.

36. LEAD BASED PAINT

All housing units assisted using CDBG-DR funds must comply with the regulations regarding lead-based paint found at 24 C.F.R. § Part 35- LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES.

37. ENVIRONMENTAL REVIEW RECORD

The Environmental Officer is responsible for maintaining a written record of the environmental review process. The ERR for all programs contains all the governmental review documents, public notices and written determinations or environmental findings required by 24 C.F.R. § Part 58- ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES as evidence of review, decision making and actions pertaining to a project of a recipient.

38. FLOOD INSURANCE REQUIREMENTS

Grantees and subrecipients of Federal funding must ensure that procedures and mechanisms are put into place to monitor compliance with all flood insurance requirements as found in the Flood Disaster Protection Act of 1973, 24 C.F.R. § 570.605- NATIONAL FLOOD INSURANCE PROGRAM and 24 C.F.R. § 570.202- ELIGIBLE REHABILITATION AND PRESERVATION ACTIVITIES.

39. DUPLICATION OF BENEFITS

CDBG-DR funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance and FEMA funds. To avoid duplicative assistance and potential de-obligation of funding, Subrecipient must utilize all possible funding sources before applying CDBG-DR dollars to a project. CDBG-DR programs are typically implemented after temporary disaster assistance programs, such as FEMA Individual Assistance which are not intended to make someone whole.

The Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. §5121 et seq., established the requirements for Duplication of Benefits (DOB) analysis.

40. ANTI-FRAUD, WASTE AND ABUSE CHECKS

The Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and risk-relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse.

41. AFFIRMATIVELY FURTHERING FAIR HOUSING

The Fair Housing Act of 1968, as amended, 42 U.S.C. §3601, et seq., dictates that grantees are required to administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Per the regulations of 24 C.F.R. § 570.601 and in accordance with Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5301 et seq., for each community receiving a grant under Subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's Assessment of Fair Housing (AFH) plan, conducted in accordance with the requirements of 24 C.F.R. § §§5.150-5.180 (Affirmatively Furthering Fair Housing) and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

42. DRUG FREE WORKPLACE

The Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. §81, as implemented by 24 C.F.R. § Part 24 Subpart F, §§983.251-983.262, requires that any grantee other than an individual must certify that it will provide a drug-free workplace. Any grantee found in violation of the requirements of this act may be subject to suspension of payments under the grant, suspension or termination of the grant or suspension or debarment of the grantee.

43. TIMELY DISTRIBUTION OF FUNDS

The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 8, 2017 (Appropriations Act), as amended, requires that funds provided under the Act be expended within two (2) years of the date that HUD obligates funds to a grantee unless otherwise authorized via waiver of this requirement by the Office of Management and Budget (OMB). The OMB waived the two (2) year expenditure requirement under 83 FR 40314; however, the provision to expend one hundred percent (100%) of the total allocation of CDBG-DR funds on eligible activities within six (6) years of HUD's initial obligation of funds remains in effect. The six (6) year expenditure period commences with the initial obligation of funds provided under 83 FR 5844. Additionally, per 83 FR 5844, the provisions at 24 C.F.R. § 570.494 and 24 C.F.R. § 570.902, regarding timely distribution and expenditure of funds, are waived and an alternative requirement was established.

Furthermore, consistent with 31 U.S.C §1555 and OMB Circular No. A-11 (2017), if the Secretary of HUD or the President of the United States determines that the purposes for which the appropriation was made have been carried out and no disbursement has been made against the appropriation for two (2) consecutive fiscal years, any remaining unobligated balance shall be canceled and will be made unavailable for obligation or expenditure for any purpose.

44. PROPERTY MANAGEMENT AND DISTRIBUTION

Regulations governing property management and distribution of real property, equipment, financial obligations and return of un-obligated cash post program closeout can be found in 24 C.F.R. § 570.506, 2 C.F.R. § 200.310, 2 C.F.R. § 200.343 and 2 C.F.R. § 200.344(b). The standards of 24 C.F.R. § 570.506 apply to any real property under a CDBG award recipient's control acquired in whole or in part with CDBG funds in excess of \$25,000.00. The recipient may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it either meets one of the national objectives as defined in 24 C.F.R. § 570.208 or if not, the recipient may either retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property. Following such reimbursement, the property will no longer be subject to any CDBG requirements.

45. LIMITED ENGLISH PROFICIENCY

Executive Order No. 13166, signed on August 11, 2000, requires programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Fair access is ensured through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Vital documents are defined as depending on the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

46. PERSONALLY IDENTIFIABLE INFORMATION

In accordance with 2 C.F.R. § 200.303, regarding internal controls of a non-Federal entity, a grantee must guarantee the protection of all Personally Identifiable Information (PII) obtained. The program will enact necessary measures to ensure PII of all applicants is safeguarded as to avoid release of private information. If a contractor or employee should experience any loss or potential loss of PII, the program shall be notified immediately of the breach or potential breach.

47. UNIFORM RELOCATION ACT

CDBG-DR funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA or Uniform Act), as amended. 49 C.F.R. § Part 24 requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses.

48. RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN. Per Section 104(d) of the Housing and Community Development Act of 1974 § 42.325

(a) Certification.

(1) As part of its consolidated plan under 24 CFR part 91, the recipient must certify that it has in effect and is following a residential anti-displacement and relocation assistance plan.

(2) A unit of general local government receiving funds from the State must certify to the State that it has in effect and is following a residential anti-displacement and relocation assistance plan, and that it will minimize displacement of persons as a result of assisted activities. The State may require the unit of general

local government to follow the State's plan or permit it to develop its own plan. A unit of general local government that develops its own plan must adopt the plan and make it public.

(b) Plan contents.

- (1) The plan shall indicate the steps that will be taken consistent with other goals and objectives of the program, as provided in parts 92 and 570 of this title, to minimize the displacement of families and individuals from their homes and neighborhoods as a result of any assisted activities.
- (2) The plan shall provide for relocation assistance in accordance with § 42.350.
- (3) The plan shall provide one-for-one replacement units to the extent required by § 42.375.

49. COMPLAINTS AND APPEALS

Citizen comments on VIHFA's published Action Plan, any substantial amendments to the Action Plan, performance reports and/or other issues related to the general administration of CDBG-DR funds are welcomed throughout the duration of the grant. The Citizen Participation Plan is posted as a stand-alone document at www.vihfa.gov. Complaints regarding fraud, waste, or abuse of government funds shall be addressed to the HUD Office of Inspector General Fraud Hotline by phone: 1-800-347-3735 or email: hotline@hudoig.gov.

50. MONITORING

As per CDBG regulation, 24 C.F.R. § 570.501(b), grantees of CDBG-DR funds are responsible for carrying out their programs to meet compliance with CDBG Program, statutory and regulatory requirements, including monitoring their project administrators, contractors and subcontractors. As such, throughout the application, planning, design, and implementation phase of the program, VIHFA will conduct internal monitoring of processes, procedures, policy, applications, planning, design, construction, and other applicable phases.

51. PROCUREMENT OF RECOVERED MATERIALS

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

This content is from the eCFR and is authoritative but unofficial.

Title 2 — Federal Financial Assistance

Subtitle A — Office of Management and Budget Guidance for Federal Financial Assistance

Chapter II — Office of Management and Budget Guidance

Part 200 — Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart D — Post Federal Award Requirements

Authority: 31 U.S.C. 503; 31 U.S.C. 6101-6106; 31 U.S.C. 6307; 31 U.S.C. 7501-7507.

Source: 89 FR 30136, Apr. 22, 2024, unless otherwise noted.

Procurement Standards

- § 200.317 Procurements by States and Indian Tribes.
- § 200.318 General procurement standards.
- § 200.319 Competition.
- § 200.320 Procurement methods.
- § 200.321 Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms.
- § 200.322 Domestic preferences for procurements.
- § 200.323 Procurement of recovered materials.
- § 200.324 Contract cost and price.
- § 200.325 Federal agency or pass-through entity review.
- § 200.326 Bonding requirements.
- § 200.327 Contract provisions.

PROCUREMENT STANDARDS

§ 200.317 Procurements by States and Indian Tribes.

When conducting procurement transactions under a Federal award, a State or Indian Tribe must follow the same policies and procedures it uses for procurements with non-Federal funds. If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must also comply with the following procurement standards: §§ 200.321, 200.322, 200.323, and 200.327. All other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow the procurement standards in §§ 200.318 through 200.327.

§ 200.318 General procurement standards.

- (a) **Documented procurement procedures.** The recipient or subrecipient must maintain and use documented procedures for procurement transactions under a Federal award or subaward, including for acquisition of property or services. These documented procurement procedures must be consistent with State, local, and tribal laws and regulations and the standards identified in §§ 200.317 through 200.327.

- (b) ***Oversight of contractors.*** Recipients and subrecipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. See also § 200.501(h).
- (c) ***Conflicts of interest.***
 - (1) The recipient or subrecipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, agent, or board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by the Federal award. A conflict of interest includes when the employee, officer, agent, or board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an entity considered for a contract. An employee, officer, agent, and board member of the recipient or subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors. However, the recipient or subrecipient may set standards for situations where the financial interest is not substantial or a gift is an unsolicited item of nominal value. The recipient's or subrecipient's standards of conduct must also provide for disciplinary actions to be applied for violations by its employees, officers, agents, or board members.
 - (2) If the recipient or subrecipient has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian Tribe, the recipient or subrecipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the recipient or subrecipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- (d) ***Avoidance of unnecessary or duplicative items.*** The recipient's or subrecipient's procedures must avoid the acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. When appropriate, an analysis should be made between leasing and purchasing property or equipment to determine the most economical approach.
- (e) ***Procurement arrangements using strategic sourcing.*** When appropriate for the procurement or use of common or shared goods and services, recipients and subrecipients are encouraged to enter into State and local intergovernmental agreements or inter-entity agreements for procurement transactions. These or similar procurement arrangements using strategic sourcing may foster greater economy and efficiency. Documented procurement actions of this type (using strategic sourcing, shared services, and other similar procurement arrangements) will meet the competition requirements of this part.
- (f) ***Use of excess and surplus Federal property.*** The recipient or subrecipient is encouraged to use excess and surplus Federal property instead of purchasing new equipment and property when it is feasible and reduces project costs.
- (g) ***Use of value engineering clauses.*** When practical, the recipient or subrecipient is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering means analyzing each contract item or task to ensure its essential function is provided at the overall lowest cost.
- (h) ***Responsible contractors.*** The recipient or subrecipient must award contracts only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract. The recipient or subrecipient must consider contractor integrity, public policy

compliance, proper classification of employees (see the Fair Labor Standards Act, 29 U.S.C. 201, chapter 8), past performance record, and financial and technical resources when conducting a procurement transaction. See also § 200.214.

(i) **Procurement records.** The recipient or subrecipient must maintain records sufficient to detail the history of each procurement transaction. These records must include the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price.

(j) **Time-and-materials type contracts.**

(1) The recipient or subrecipient may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a recipient or subrecipient is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Because this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the recipient or subrecipient awarding such a contract must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) **Settlement of contractual and administrative issues.** The recipient or subrecipient is responsible for the settlement of all contractual and administrative issues arising out of its procurement transactions. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the recipient or subrecipient of any contractual responsibilities under its contracts. The Federal agency will not substitute its judgment for that of the recipient or subrecipient unless the matter is primarily a Federal concern. The recipient or subrecipient must report violations of law to the Federal, State, or local authority with proper jurisdiction.

(l) **Examples of labor and employment practices.**

(1) The procurement standards in this subpart do not prohibit recipients or subrecipients from:

(i) Using Project Labor Agreements (PLAs) or similar forms of pre-hire collective bargaining agreements;

(ii) Requiring construction contractors to use hiring preferences or goals for people residing in high-poverty areas, disadvantaged communities as defined by the Justice40 Initiative (see OMB Memorandum M-21-28), or high-unemployment census tracts within a region no smaller than the county where a federally funded construction project is located. The hiring preferences or goals should be consistent with the policies and procedures of the recipient or subrecipient, and must not prohibit interstate hiring;

(iii) Requiring a contractor to use hiring preferences or goals for individuals with barriers to employment (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(24))), including women and people from underserved communities as defined by Executive Order 14091;

- (iv) Using agreements intended to ensure uninterrupted delivery of services; using agreements intended to ensure community benefits; or
 - (v) Offering employees of a predecessor contractor rights of first refusal under a new contract.
- (2) Recipients and subrecipients may use the practices listed in paragraph (1) if consistent with the U.S. Constitution, applicable Federal statutes and regulations, the objectives and purposes of the applicable Federal financial assistance program, and other requirements of this part.

§ 200.319 Competition.

- (a) All procurement transactions under the Federal award must be conducted in a manner that provides full and open competition and is consistent with the standards of this section and § 200.320.
- (b) To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids must be excluded from competing on those procurements.
- (c) Examples of situations that may restrict competition include, but are not limited to:
 - (1) Placing unreasonable requirements on firms for them to qualify to do business;
 - (2) Requiring unnecessary experience and excessive bonding;
 - (3) Noncompetitive pricing practices between firms or between affiliated companies;
 - (4) Noncompetitive contracts to consultants that are on retainer contracts;
 - (5) Organizational conflicts of interest;
 - (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - (7) Any arbitrary action in the procurement process.
- (d) The recipient or subrecipient must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - (1) Are made in accordance with § 200.319(b);
 - (2) Incorporate a clear and accurate description of the technical requirements for the property, equipment, or service being procured. The description may include a statement of the qualitative nature of the property, equipment, or service to be procured. When necessary, the description must provide minimum essential characteristics and standards to which the property, equipment, or service must conform. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to clearly and accurately describe the technical requirements, a “brand name or equivalent” description of features may be used to provide procurement requirements. The specific features of the named brand must be clearly stated; and
 - (3) Identify any additional requirements which the offerors must fulfill and all other factors that will be used in evaluating bids or proposals.

- (e) The recipient or subrecipient must ensure that all prequalified lists of persons, firms, or products used in procurement transactions are current and include enough qualified sources to ensure maximum open competition. When establishing or amending prequalified lists, the recipient or subrecipient must consider objective factors that evaluate price and cost to maximize competition. The recipient or subrecipient must not preclude potential bidders from qualifying during the solicitation period.
- (f) To the extent consistent with established practices and legal requirements applicable to the recipient or subrecipient, this subpart does not prohibit recipients or subrecipients from developing written procedures for procurement transactions that incorporate a scoring mechanism that rewards bidders that commit to specific numbers and types of U.S. jobs, minimum compensation, benefits, on-the-job-training for employees making work products or providing services on a contract, and other worker protections. This subpart also does not prohibit recipients and subrecipients from making inquiries of bidders about these subjects and assessing the responses. Any scoring mechanism must be consistent with the U.S. Constitution, applicable Federal statutes and regulations, and the terms and conditions of the Federal award.
- (g) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

§ 200.320 Procurement methods.

There are three types of procurement methods described in this section: informal procurement methods (for micro-purchases and simplified acquisitions); formal procurement methods (through sealed bids or proposals); and noncompetitive procurement methods. For any of these methods, the recipient or subrecipient must maintain and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319.

- (a) **Informal procurement methods for small purchases.** These procurement methods expedite the completion of transactions, minimize administrative burdens, and reduce costs. Informal procurement methods may be used when the value of the procurement transaction under the Federal award does not exceed the simplified acquisition threshold as defined in § 200.1. Recipients and subrecipients may also establish a lower threshold. Informal procurement methods include:
 - (1) **Micro-purchases —**
 - (i) **Distribution.** The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold defined in § 200.1. To the extent practicable, the recipient or subrecipient should distribute micro-purchases equitably among qualified suppliers.
 - (ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the recipient or subrecipient considers the price reasonable based on research, experience, purchase history, or other information; and maintains documents to support its conclusion. Purchase cards may be used as a method of payment for micro-purchases.
 - (iii) **Micro-purchase thresholds.** The recipient or subrecipient is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the recipient or subrecipient must be authorized or not prohibited under State, local, or tribal laws or regulations. The recipient or subrecipient may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

- (iv) **Recipient or subrecipient increase to the micro-purchase threshold up to \$50,000.** The recipient or subrecipient may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The recipient or subrecipient may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal agency or pass-through entity and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
 - (A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
 - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
 - (C) For public institutions, a higher threshold is consistent with State law.
- (v) **Recipient or subrecipient increase to the micro-purchase threshold over \$50,000.** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The recipient or subrecipient must submit a request that includes the requirements in paragraph (a)(1)(iv) of this section. The increased threshold is valid until any factor that was relied on in the establishment and rationale of the threshold changes.

(2) **Simplified acquisitions –**

- (i) **Simplified acquisition procedures.** The aggregate dollar amount of the procurement transaction is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If simplified acquisition procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate.
- (ii) **Simplified acquisition thresholds.** The recipient or subrecipient is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures, which may be lower than, but must not exceed, the threshold established in the FAR.

(b) **Formal procurement methods.** Formal procurement methods are required when the value of the procurement transaction under a Federal award exceeds the simplified acquisition threshold of the recipient or subrecipient. Formal procurement methods are competitive and require public notice. The following formal methods of procurement are used for procurement transactions above the simplified acquisition threshold determined by the recipient or subrecipient in accordance with paragraph (a)(2)(ii) of this section:

- (1) **Sealed bids.** This is a procurement method in which bids are publicly solicited through an invitation and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation and is the lowest in price. The sealed bids procurement method is preferred for procuring construction services.
 - (i) For sealed bidding to be feasible, the following conditions should be present:
 - (A) A complete, adequate, and realistic specification or purchase description is available;

- (B) Two or more responsible bidders have been identified as willing and able to compete effectively for the business; and
 - (C) The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally based on price.
 - (ii) If sealed bids are used, the following requirements apply:
 - (A) Bids must be solicited from an adequate number of qualified sources, providing them with sufficient response time prior to the date set for opening the bids. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate. For local governments, the invitation for bids must be publicly advertised.
 - (B) The invitation for bids must define the items or services with specific information, including any required specifications, for the bidder to properly respond;
 - (C) All bids will be opened at the time and place prescribed in the invitation for bids. For local governments, the bids must be opened publicly.
 - (D) A firm-fixed-price contract is awarded in writing to the lowest responsive bid and responsible bidder. When specified in the invitation for bids, factors such as discounts, transportation cost, and life-cycle costs must be considered in determining which bid is the lowest. Payment discounts must only be used to determine the low bid when the recipient or subrecipient determines they are a valid factor based on prior experience.
 - (E) The recipient or subrecipient must document and provide a justification for all bids it rejects.
- (2) **Proposals.** This is a procurement method used when conditions are not appropriate for using sealed bids. This procurement method may result in either a fixed-price or cost-reimbursement contract. They are awarded in accordance with the following requirements:
 - (i) Requests for proposals require public notice, and all evaluation factors and their relative importance must be identified. Proposals must be solicited from multiple qualified entities. To the maximum extent practicable, any proposals submitted in response to the public notice must be considered.
 - (ii) The recipient or subrecipient must have written procedures for conducting technical evaluations and making selections.
 - (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the recipient or subrecipient considering price and other factors; and
 - (iv) The recipient or subrecipient may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby the offeror's qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where the price is not used as a selection factor, can only be used to procure architectural/engineering (A/E) professional services. The method may not be used to purchase other services provided by A/E firms that are a potential source to perform the proposed effort.

- (c) **Noncompetitive procurement.** There are specific circumstances in which the recipient or subrecipient may use a noncompetitive procurement method. The noncompetitive procurement method may only be used if one of the following circumstances applies:
- (1) The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
 - (2) The procurement transaction can only be fulfilled by a single source;
 - (3) The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation;
 - (4) The recipient or subrecipient requests in writing to use a noncompetitive procurement method, and the Federal agency or pass-through entity provides written approval; or
 - (5) After soliciting several sources, competition is determined inadequate.

§ 200.321 Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms.

- (a) When possible, the recipient or subrecipient should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are considered as set forth below.
- (b) Such consideration means:
- (1) These business types are included on solicitation lists;
 - (2) These business types are solicited whenever they are deemed eligible as potential sources;
 - (3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
 - (4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
 - (5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring a contractor under a Federal award to apply this section to subcontracts.

§ 200.322 Domestic preferences for procurements.

- (a) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards.
- (b) For purposes of this section:
- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- (c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

§ 200.323 Procurement of recovered materials.

- (a) A recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- (b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

§ 200.324 Contract cost and price.

- (a) The recipient or subrecipient must perform a cost or price analysis for every procurement transaction, including contract modifications, in excess of the simplified acquisition threshold. The method and degree of analysis conducted depend on the facts surrounding the particular procurement transaction. For example, the recipient or subrecipient should consider potential workforce impacts in their analysis if the procurement transaction will displace public sector employees. However, as a starting point, the recipient or subrecipient must make independent estimates before receiving bids or proposals.
- (b) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that the costs incurred or cost estimates included in negotiated prices would be allowable for the recipient or subrecipient under subpart E of this part. The recipient or subrecipient may reference its own cost principles as long as they comply with subpart E of this part.
- (c) The recipient or subrecipient must not use the “cost plus a percentage of cost” and “percentage of construction costs” methods of contracting.

§ 200.325 Federal agency or pass-through entity review.

- (a) The Federal agency or pass-through entity may review the technical specifications of proposed procurements under the Federal award if the Federal agency or pass-through entity believes the review is needed to ensure that the item or service specified is the one being proposed for acquisition. The recipient or subrecipient must submit the technical specifications of proposed procurements when requested by the Federal agency or pass-through entity. This review should take place prior to the time the specifications are incorporated into a solicitation document. When the recipient or subrecipient desires to

accomplish the review after a solicitation has been developed, the Federal agency or pass-through entity may still review the specifications. In those cases, the review should be limited to the technical aspects of the proposed purchase.

- (b) When requested, the recipient or subrecipient must provide procurement documents (such as requests for proposals, invitations for bids, or independent cost estimates) to the Federal agency or pass-through entity for pre-procurement review. The Federal agency or pass-through entity may conduct a pre-procurement review when:
 - (1) The recipient's or subrecipient's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (2) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition, or only one bid is expected to be received in response to a solicitation;
 - (3) The procurement is expected to exceed the simplified acquisition threshold and specifies a "brand name" product;
 - (4) The procurement is expected to exceed the simplified acquisition threshold, and a sealed bid procurement is to be awarded to an entity other than the apparent low bidder; or
 - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
- (c) The recipient or subrecipient is exempt from the pre-procurement review in paragraph (b) of this section if the Federal agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - (1) The recipient or subrecipient may request that the Federal agency or pass-through entity review its procurement system to determine whether it meets these standards for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding and third-party contracts are awarded regularly.
 - (2) The recipient or subrecipient may self-certify its procurement system. However, self-certification does not limit the Federal agency's or pass-through entity's right to review the system. Under a self-certification procedure, the Federal agency or pass-through entity may rely on written assurances from the recipient or subrecipient that it is complying with the standards of this part. The recipient or subrecipient must cite specific policies, procedures, regulations, or standards as complying with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

The Federal agency or pass-through entity may accept the recipient's or subrecipient's bonding policy and requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold. Before doing so, the Federal agency or pass-through entity must determine that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute any required contractual documents within the specified timeframe.

- (b) A performance bond on the contractor's part for 100 percent of the contract price. A performance bond is a bond executed in connection with a contract to secure the fulfillment of all the contractor's requirements under a contract.
- (c) A payment bond on the contractor's part for 100 percent of the contract price. A payment bond is a bond executed in connection with a contract to assure payment as required by the law of all persons supplying labor and material in the execution of the work provided for under a contract.

§ 200.327 Contract provisions.

The recipient's or subrecipient's contracts must contain the applicable provisions described in Appendix II of this part.