City of Columbia
Community Development Department
1225 Lady St., Suite 102
Columbia, SC 29201
NOTE: May be printed on agency letterhead

Request for Proposal (Technical Assistance in Project Underwriting utilizing Federal Funding)

RFP Number:	RFP-CD Multi-2019-01-RTB	***RFP Due Date:**	April 22, 2019
Description:	Consulting Service for Technical Assistance with Underwriting Multifamily Projects	***RFP Deadline Time:**	5:00 p.m. EST

CITY'S CONTACT INFORMATION			
Name:	Gloria Saeed	Phone:	803-545-3373
Fax:	803-254-8912	Email:	Gloria.Saeed@columbiasc.gov

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Instructions:

- RFP should be submitted by the time and date specified above.
- Mail or hand-delivered in sealed envelope.
- The consultant should provide the information below.

MAILING ADDRESS:	BID OPENING LOCATION:
Community Development Department Attn: Gloria Saeed 1225 Lady Street Suite #201 Columbia, SC 29201 Email: Gloria.Saeed@columbiasc.gov	Community Development Department 1225 Lady Street Suite #201 1st Floor Conference Room Columbia, SC 29201

CONTRACTOR INFORMATION			
Company Name:	_____		
Name (type or print):	_____	Title:	_____
Address:	_____		
City:	_____	State: _____	ZIP Code: _____
Telephone Number:	_____	Fax Numbe	_____
E-Mail Address:	_____		
Signature:			
Use Ink Only.			
Business Designation (check one):	Individual [ ] Partnership [ ]	Sole Proprietorship [ ] Corporation [ ]	Public Service Corp [ ] Government/ Nonprofit [ ]

Introduction and Project Overview

The Community Development Department (CDD) is committed to making the City of Columbia (City) and its neighborhoods a better place to live, work and play. The City of Columbia strives to provide safe, decent and affordable housing, a suitable living environment and economic opportunities particularly for low to moderate income individuals and communities.

CDD is seeking professional consulting services consisting of technical assistance primarily in the area of multifamily rental housing project underwriting. Funding for most of the Department's programs is from the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) to include disaster recovery, Housing Opportunities for Persons with AIDS (HOPWA), and Home Investment Partnership Program (HOME). In addition, we administer various programs utilizing City General Fund dollars. These program dollars may fund public services and non-public services, home loans and housing development projects.

This RFP is being emailed to prospective Consultants and will be posted on the City of Columbia website (www.columbiasc.gov/comdev), as well as advertised in The State paper. CDD encourages qualified individuals and firms to Sealed proposals in response to this RFP are being solicited by the City of Columbia, Department of Procurement and Contracts, for the above titled project. Proposals must be submitted electronically through eBidcolumbiasc, the City's e-Procurement System at https://columbiasc.ionwave.net/Login.aspx by the date and time specified herein. Hardcopy submittals must be sent to ***City of Columbia, Community Development Department 1225 Lady St., Suite 102 Columbia, South Carolina 29201;* Attn: RFP-CD Multi-2019-01-RTB *Consulting Services for Technical Assistance with Underwriting Multifamily Projects.*** Detailed instructions for submitting responses to this RFP can be found under paragraph 5, Essential Elements of Proposal.

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Enterprise Businesses (DBEs) including, but not limited to, Small Businesses (SBEs), Minority Businesses (MBEs), Women-Owned Businesses (WBEs). In an effort to encourage socially and economically disadvantaged business participation, this goal extends to Bidders, Offerors, Subcontractors and suppliers on its procurement and contracting offerings.

Background:

CDD has experience in providing funding for affordable multifamily and single family housing projects. CDD desires to further leverage our local and federal resources by offering GAP financing through loans and grants to increase the availability of affordable, workforce and market rate housing within the City limits of Columbia. Affordable housing will serve families with incomes at or below 80% Area Median Income (AMI) as defined annually by HUD. Workforce housing will serve families with incomes at 81% and up to 120% of the AMI as defined annually by HUD. Market rate housing will serve families with incomes at 121% and up to 150% of the AMI as defined annually by HUD.

Scope of Services:

The consultant shall provide direct training to department staff in the areas of underwriting complex multifamily housing projects consisting of multi-layered financing structures to include but not limited to Low Income Housing Tax Credits (LIHTC), New Market Tax Credits (NMTC), private lenders, HOME, CDBG and HUD Section 108. Assistance is also needed in the review of a project's viability, developer experience and financial capacity. This shall include review of sources and uses, operating proformas and financial statements.

The expectation is also that technical assistance shall include the review of a standard pre-application that can be used to provide required information that would be needed if the applicant's intent is to apply for CDD funding. Consultant shall assist with issues arising during project pre-development and development during contract period. From time to time, CDD may request that consultant participate in meetings and conference calls with applicants to advise on program regulations and other issues that are technical in nature which require a wide range of finance and development expertise.

The City of Columbia invites and will receive bids duly filed as provided herein for the Scope of Services outlined. All bids are due no later than **April 22, 2019 at 5:00 P.M.**

Proposal Format:
Any statement in this document that contains the word "will", "must" or "shall" means that compliance with the intent of the statement is mandatory, and failure by the Consultant to satisfy that intent will cause the bid to be rejected.

All bid pricing must be United States dollars and cents.

Bids will only be accepted in the English language.

Deliverables:
Below are specific deliverables that may include, but not be limited to:

A. Review and provide staff with technical assistance with reviewing multifamily and single family projects.

B. Assist staff with underwriting projects that include multiple funding sources and making recommendation on interest rates and terms.

C. Analyze development project to determine viability.

D. Evaluate developer's experience and capacity to complete a project.

E. Assist with determining who the Responsible Entity is in a project with multiple partners and how to best approach the city's investment in proportion to overall funding.

F. Advise on program regulation issues.

G. Assist with development issues during pre-development and development.

H. Recommend updates current policies and procedures guidelines to include all standard requirements for development projects.

Essential Elements of Proposal:

Proposals must include and will be evaluated on the following:

Part I – Cover Letter

The response should contain a cover letter and introduction, including: the company name and address, email address and the name and telephone number of the person or persons authorized to represent the Consultant regarding all matters related to the response. The cover letter should also contain the following statement:

"I have read the *Community Development Department Request for Proposals (RFP) Consulting Service for Technical Assistance with Underwriting Multifamily Projects* and fully understand its intent. I certify that I have adequate personnel, equipment, and facilities to provide the Community Development Department with the requested services and I have indicated I can meet the terms of the RFP. I understand that my ability to meet the criteria and provide the required services shall be judged solely by the Community Development Department.

In addition, the cover letter must certify that:

- The response is genuine, and is not a fraud or collusive.
- The response is not made in the interest of or on the behalf of any person not named therein.
- The innovative Consultant has not directly or indirectly induced or solicited any person to submit a false or fraud response or to refrain from submitting a proposal.
- The Consultant has not in any manner sought by collusion to secure an advantage over any other Consultant.
- The Consultant has thoroughly examined the RFP requirements and proposed fees cover all the services that we have indicated.
- The Consultant acknowledges and accepts all terms and conditions included in the RFP.
- The Consultant agrees to provide management consultant services in a manner acceptable to the Community Development Department and as stipulated in the RFP and subsequent contract.
- The Consultant and key professional do not have or anticipate a potential conflict of interest with the Community Development Department or the City of Columbia.

A person authorized to bind the firm to all commitments made in its response shall sign this letter.

Part II – Technical Proposal

The Consultant must include a narrative outlining the consultants' qualifications and capacity to provide the requested services. The response must include the following:

- Provide an overview of your firm's services and management approach to include the type of company (sole proprietor, partnership, etc.), number of employees, years in operation and minority/women owned business status.
- Identify key staff assigned to this engagement and provide resumes/biographies.
- Provide three references, include name of client, address, and phone number. Please briefly describe the nature of the engagement/project.
- If applicable, provide a list of public sector clients, including state agencies, authorities, and municipalities. Include at least one such client on your reference list. The following must be submitted with your response:
- Organizational Conflict of Interest Statement
  Qualifications and Experience Questionnaire
- Non-Collusion Affidavit

- All respondents must provide a Financial Statement of Responsibility. This should also include Balance Sheets for the last 3 financial audit periods in a separate sealed hand delivered/mailed envelope. Please mark the documents "Confidential." Respondents do not need to upload this document to eBidcolumbiasc.

Part III – Cost Proposal

The Cost Proposal should include:

- An itemized breakdown of billing rates and hourly costs., reimbursable expenses for any services that may be requested in addition to the services previously described.
- Staff rates per hour and estimated total hours for each person assigned to the engagement.
- Other expenses or costs associated with the performance of this contract.

Evaluation Criteria:

The factors to be used in evaluating the responses will include the following:

- Professional capacity to undertake the Scope of Work **(25 points)**
- Professional qualifications of staff to be assigned to engagement **(10 points)**
- Ability to perform within time constraints **(25 points)**
- Quality of references **(10 points)**
- Experience with underwriting tax credit, private and federally funded projects **(15 points)**
- Proposed fees and compensation **(15 points)**

Fees and compensation will be an important factor in the evaluation of responses. However, The City of Columbia, (hereinafter referred to as the "City"), will conduct a formal selection process to determine the highest ranked, responsive, and responsible Offeror whose proposal is determined to be the most advantageous to the City. Community Development Department reserves the right to negotiate a change in any element of contract performance or cost identified in the RFP.

Type of Contract:
AWARD: Firm Fixed Contract will be issued to the successful Consultant. It results in a binding obligation without further action by either party.

Minimum Qualifications:
The selected consultant must have demonstrated successful experience with economic and community development projects, syndications, federal and state funding mechanisms and private sector financing.

Number of Response Copies:
Submit (1) original and (2) copies to Attn: Gloria Saeed, Community Development Director at the address shown below. Please direct a courtesy copy by email to: Gloria.Saeed@Columbiasc.gov.

City of Columbia Community Development Department
1225 Lady Street Suite 102
Columbia, SC 29201

Disqualifications of Proposals:
Late Proposals: Proposals that are received after the deadline date and time shall be automatically disqualified.

Non-responsive Proposals: Proposals that are not responsive or that fail to comply with mandatory requirements of the RFP shall be deemed non-responsive and shall be disqualified. Non-responsive proposals shall include, but not be limited to, those that fail to address or meet any mandatory item, and those submitted in insufficient number or in incorrect format.

Collusion: Collusion by two or more Consultants agreeing to act in a manner intended to avoid or frustrate fair and open competition is prohibited, and shall be grounds for rejection or disqualification of a proposal or termination of a contract.

Terms and Conditions for Submission of Proposals:
All submittals shall become the property of the Community Development Department and the City of Columbia and are subject to Freedom of Information Act (FOIA) regulations.

Proposal Inquiries:
All inquiries concerning this RFP shall be made in writing via mail or email no later COB Monday, April 15, 2019, citing the RFP Title, Page, Section and Paragraph, and shall be submitted to: Gloria Saeed, Community Development Director, Community Development Department, 1225 Lady Street Suite 102 Columbia, SC 29201 or Gloria.Saeed@columbiasc.gov.

No questions may be directed to or contacts made with the Mayor, other members of City Council, the City Manager, and other City Staff not identified in this RFP as points of contacts during the period of time that this RFP is made public until the final selection is made, except as otherwise provided for herein. Violation of this prohibition may disqualify the contractor and/or consulting firm from further consideration.

All inquiries must be received no later than the date specified in this section. Inquiries received after this date, will not receive a response. An official written response will be provided to all questions meeting the requirements.

The Community Development Department shall reserve the right to clarify and seek supplemental information to any proposal submitted.

Tentative Schedule of Events:
The following is the tentative time schedule for the selection of a contractor to provide the services described herein. All dates are subject to modification by the Community Development Department:

Issuance of RFP	April 8, 2019
Inquiries Deadline	April 15, 2019
RFP Response Deadline	April 22, 2019
Approximate Contract Award Date	April 29, 2019
Approximate Start Date	May 6, 2019

Award Criteria and Responsibility:
Bids must meet or exceed all defined specifications. Bids must meet all terms and conditions of this Competitive Bid, the laws of the State of South Carolina and all "Community Development Conditions of Federal Funding and Federal Labor Standards" for Contractors.

Right of Rejection by the Community Development Department:

Notwithstanding any other provisions of this RFP, the Community Development Department reserves the right to reject all responses, to waive any irregularity or informality in a response, and to accept or reject any item or combination of items, when to do so would be to the advantage of the Community Development Department and the City of Columbia. Furthermore, it is within the right of the Community Development Department to reject responses that do not contain all elements and information requested in this document.

Contract Negotiations:

After a review of the responses, the Community Development Department intends to enter into contract negotiations with one firm. Those negotiations could include all aspects of services and fees or specific tasks associated with a proposal. Consultant are therefore encouraged to detail the pricing associated with their proposal so that costs are indexed to specific tasks or services. This will allow the Community Development Department to fairly evaluate and rank competitive proposals on individual components of the proposal if it is deemed in their best interest to do so.

If a contract is not finalized in a reasonable time period, the Community Development Department will reopen negotiations with the next highest ranked consultant.

Award of Contract:

The Consultant to whom the contract is awarded shall be required to enter into a written contract in a form approved by the Community Development Department and the City's legal department. This RFP and the response, or any part thereof, may be incorporated into and made a part of the final contract.

Contract Duration:

The contract is expected to last for an engagement of approximately one year. The Community Development Department reserves the right to renew contracts on an annual basis not to exceed three (3) years.

Contract Termination:

The City may terminate the contract at any time upon any of the following grounds:

- Failure by the City to appropriate funds in its budget to pay the firm for the requested services.
- The firm fails to perform any of the services required within the contract.
- For the convenience of the City, in the City's discretion, for any reason whatsoever.
- In the event the contract is terminated under any of the other grounds enumerated herein and later appropriately and finally determined by an authorized process to be erroneous, such termination shall be treated as a termination for convenience.
- If the contract is terminated for convenience, or erroneously terminated upon any of the other grounds enumerated herein, the firm's sole and exclusive remedy is to be compensated for services rendered up to the date of termination calculated on a per diem basis using a 365-day calendar year.
- *Force majeure.*
- Upon expiration of the contract term.

Delivery:

City of Columbia Community Development
Attn: Gloria Saeed
1225 Lady Street Suite 201
Columbia, SC 29201

Due to the time sensitive nature of development projects requiring review, the Consultant is expected to begin initial underwriting with five (5) calendar days after the City issues a "Notice to Proceed" for each assigned property.

Payment and Invoice Provisions:
All invoices shall be forwarded to the:

City of Columbia Community Development
Attention: Gloria Saeed
1225 Lady Street Suite 201
Columbia, SC 29201

Compensation:

A. The total compensation to be paid by the City to the Consultant under this Agreement shall not exceed i.e. *TBD* and No/100 ($00).

B. The Consultant shall submit invoices no more frequently than monthly for services rendered during each phase of the Project. Each invoice submitted must describe the services for which payment is requested, show payment calculations and specify the person(s) rendering such service(s). Consultant must invoice monthly regardless of work being completed during that period. If no work is completed, a zero balance invoice should be submitted. Each invoice shall bear the signature of the Consultant, whose signature shall certify that the information contained in the invoice is true and accurate and that the invoice amount is currently due and owing. The City will not pay interest or penalty on any past due amount.

C. Invoicing Procedure:
Failure of the Consultant to follow these invoice requirements will result in the delay of payment of the invoice.

Financial Responsibility:
The Consultant understands and agrees that the Community Development Department shall have no financial responsibility for any costs incurred by the Consultant in responding to this RFP.

The successful Consultant shall be solely responsible for meeting all terms and conditions specified in the RFP, its proposal, and any resulting contract.

The contractor's signature on a proposal submitted in response to this RFP guarantees that the prices quoted have been established without collusion.or acts that preclude the Community Development Department from obtaining the best possible competitive proposal.

Additional Stipulations:

Non-Collusive Affidavit: Each person submitting a bid for any portion of the work contemplated by the bidding documents shall execute an affidavit in the form provided by the Owner to the effect that he has not colluded with any other person, form or corporation in regard to any bid submitted. Such affidavit shall be attached to the bid.

Limitations of Indemnification: In any and all claims against the Owner or any of its agents or employees by any employee of the Contractor, anyone directly or indirectly employed by it or anyone for whose acts it may be liable, the indemnification obligation under Paragraph Two (2) of these General Conditions shall not be limited in any way by any limitation on the amount of type of damages, compensation or benefits payable by or for the Contractor under Workman's Compensation, Disability Benefit or other Employee Benefit Acts.

Severability: The invalidity or unenforceability of any portion(s) or provisions(s) of this agreement shall in no way affect the validity or enforceability of any other portions(s) or provision(s) thereof. Any invalid or unenforceable provision(s) shall be severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion(s) or provision(s) held to be invalid and/or unenforceable.

- The City of Columbia may terminate this contract in whole or in part, and thereupon shall notify the Consultant of termination, the reasons therefore, and the effective date, provided such effective date shall not be prior to notification of the Consultant. After this effective date, no charges incurred under any terminated portions of the Scope of Work are allowable.

Termination for Other Grounds – This contract may also be terminated in whole or in part:

- By the City of Columbia with the consent of the Consultant, or by the Consultant with the consent of the City of Columbia in which case the two parties shall devise by mutual agreement, the conditions of termination, including effective date and in case of termination in part, that portion to be terminated;

- If the funds allocated via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services;

- In the event the City of Columbia fails to pay the Consultant promptly or within sixty (60) days after invoices are rendered, the Consultant shall have the right to consider said default a breach of this agreement and the duties of the Consultant under this agreement terminated. In such event, the City of Columbia shall then promptly pay the Consultant for all services performed and all allowable expenses incurred; and

- The City of Columbia may terminate this contract at any time giving at least ten (10) days' notice in writing to the Consultant. If the contract is terminated for convenience as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

Changes, Amendments, Modifications:
The City may, from time to time, require changes or modifications in the Scope of Work to be performed. Such changes, including any decrease or increase in the amount of compensation, which are mutually agreed upon by the City of Columbia and the Consultant shall be incorporated in written amendments to this contract.

Anti-Lobbying
Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, prohibits CONSULTANT from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT 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 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.

Acknowledgement of Receipt and Willingness to Comply

Contractor Representative Printed Name	Date
Contractor Representative Printed Title	
City of Columbia Representative Signature	Date

APPENDICIES

APPENDIX I- ORGANIZATIONAL CONFLICT OF INTEREST STATEMENT

APPENDIX II- NONCOLLUSION AFFIDAVIT

APPENDIX III – STAFF HOURLY RATES

APPENDIX IV - INVOICING PROCEDURES

APPENDIX V – QUALIFICATION AND EXPERIENCE QUESTIONNAIRE

APPENDIX VI- CONDITIONS OF FEDERAL FUNDING AND FEDERAL LABOR STANDARDS PROVISIONS FOR CONTRACTS

APPENDIX I - ORGANIZATIONAL CONFLICT OF INTEREST STATEMENT

RFP-CD Multi-2019-01-RTB

Request for Proposal

Consulting Services for Technical Assistance with Underwriting Multifamily Projects

The City is respectfully requesting information to ensure that any actual or potential Conflicts of Interest (COIs) are properly recorded, reviewed and addressed in a manner as deemed appropriate by the City. It is our goal to protect the integrity of the procurement process and to ensure that no unfair competitive advantages exists or existed during any stage of the process. The City, in its sole discretion, will take the steps required to neutralize, mitigate or to perform any other action to resolve any potential or actual conflict of interest if discovered during this discovery phase.

Some examples of COIs in an organization may include, but are not limited to the following:

- Unfair Advantage: Assisting or preparing the organization in crafting written specifications, scopes of work or statements of qualifications and subsequently responding to the solicitation.

- Potentially biased or impaired objectivity: Assisting the organization with evaluating or assessing the performance of products or services of other potential bidders and also submitting a response to the solicitation.

- Unequal access to information not shared with other potential bidders or respondents: Gaining access or pre-solicitation access to non-public information prior to official release (i.e. budget/funding information, procurement information, proposed evaluation criteria, prior award info obtained from the organization through non-FOIA means, etc.).

I,_____ (Offeror/Consultant), on behalf of myself and my company, and my subcontractors, if applicable, certify the following, under penalty of perjury, that to the best of my knowledge and belief:

1. No circumstances currently exist that create a Conflict of Interest in my performing the services required by the Solicitation to which I am responding or the Agreement to be signed if I am the successful Offeror in response to this Solicitation, and

2. I understand and acknowledge that my failure to disclose any affiliation or relationship that creates or may create a Conflict of Interest shall be deemed a material misrepresentation and sufficient reason for Offeror and Offeror's company to be disqualified, suspended, and/or excluded from participating in this and any future solicitation and procurements as well as removal from the City of Columbia vendor database. It may further result in termination of any contractual relationship with the City of Columbia and may be grounds for disciplinary action, up to and including debarment by the City, fines, penalties, imprisonment, or civil suit to be brought against Offeror or Offeror's company.

3. That to my knowledge, no employee or official of the City, nor any public agency or official affected by this Solicitation or the Agreement to be signed if I am the successful Offeror, has any pecuniary interest in the business of the Offeror's company or Offeror's Subcontractor(s), nor does Offeror or Offeror's Subcontractors have any interest that would conflict in any manner or degree with the performance related to this Solicitation or Agreement.

4. I warrant that I and my Subcontractor(s), if any, have not employed or retained any company or person other than a bona fide employee working solely for the Offeror's company or Subcontractor(s) in order to solicit or secure an agreement with the City of Columbia, as related to this Solicitation or any resulting Agreement, and that I and my Subcontractor(s), if any, have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Offeror's company or Offeror's Subcontractor(s) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of any Agreement.

5. I warrant and represent that my offer identifies and explains below any unfair competitive advantage I or my company or Subcontractors may have in competing for the Agreement to result from this Solicitation and any actual or potential conflicts of interest that may arise from my participation in this Solicitation or my receipt of an award. I acknowledge that the City intends by this statement to identify any and all potential conflicts of interest and unfair competitive advantages held by any Offeror, to prevent the existence of conflicting roles that might bias a consultant's judgment, and prevent one Offeror or company from having an unfair competitive advantage over other Offerors. The City, in its sole discretion, has the authority and responsibility to determine whether or not a conflict of interest or unfair competitive advantage exists, after a review of the relevant facts. I acknowledge and understand that if I or my company has an unfair competitive advantage or a conflict of interest; the City may withhold the award of this Agreement. Before withholding award on these grounds, an Offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered.

6. I have complied with the following:

"No questions (including Compliance Program related questions) may be directed to or contacts made with the Mayor, other members of City or County Council, the City Manager, other City staff not identified in this solicitation as points of contacts during the period of time that this solicitation is made public until the final selection is made, except as otherwise provided for herein. Violation of this prohibition may disqualify the contractor and/or consulting firm from further consideration. _____ is the Procurement/Contracting Officer for this solicitation."

List any Actual or Potential Conflicts of Interest below or check the box below to certify that none exists. Failure to fully disclose information may result in penalties and/or sanctions as outlined in #2 above.
Please check only one box below.

☐ **No known actual or potential Conflicts of Interest are subject to disclosure.**

☐ **All identified actual or potential Conflicts of Interest and/or Unfair Competitive advantage(s) are stated below and submitted for further review by the City of Columbia, SC.**

_____

_____

_____

_____

_____

7. I warrant that should I become aware of an actual or potential conflict of interest involving my company or Subcontractors, if any, in performing the services under the Agreement or responding to this Solicitation, I will notify the City immediately. I also warrant that should I become aware of any competitive advantage that my company or Subcontractors have in responding to this Solicitation or providing services under an Agreement related to this Solicitation, I will immediately notify the City of the discovery of a possible competitive advantage. I understand and acknowledge that this obligation to inform the City of the discovery of a conflict of interest or competitive advantage is a continuing obligation and extends throughout the Term of the Agreement for this procurement.

8. By signing this statement, I certify for myself and on behalf of my company and any of my Subcontractors that I have and will comply with, and have not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (Ethics Act). I acknowledge and understand that the City may rescind any Agreement and recover all amounts expended as a result of any action taken in violation of this provision. If I or my company or Subcontractors participate, directly or indirectly, in the evaluation or award of public Agreements, including without limitation, change orders, or task orders regarding a public Agreement, I shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Purchasing Agent at the same time the law required the statement to be filed.

9. **Has anyone in your company been privy to any information regarding the** RFP-CD Multi-2019-01- RTB Consulting Services for Technical Assistance with Underwriting Multifamily Projects **solicitation prior to April 8, 2019? If so, please explain.**

_____

_____

_____

10. **Prior to the solicitation release date on April 8, 2019, has anyone in your company attended any meetings, either internally or externally, where the above referenced solicitation was discussed either in whole or in part?**

_____

_____

_____

Company Name: _____

By: _____

Print Name: _____

Title: _____

Date: _____

Subscribed and sworn to before me

this _____day of _____, 20_____

_____

(Notary Public)
My commission expires _____

APPENDIX II - NONCOLLUSION AFFIDAVIT

State of _____)

County of _____)

_____ being first duly sworn, deposes and says that:

(1) He is _____ of _____, the Bidder that has submitted the attached Bid:

(2) He is fully 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, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham in connection with the Contract for which the attached Bid has been submitted or to retain 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, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the **City of Columbia, S.C.** 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 affidavit.

(Signed)_____

_____
(Title)

Subscribed and sworn to before me

this _____day of _____,20_____

_____
(Notary Public)
My commission expires _____

APPENDIX III – STAFF HOURLY RATES

Firm Name:_____

Total Cost for the Scope of Services as listed in Section IV: _____

Please provide Hourly Rate Sheets for all personnel assigned to the Project and for all categories of personnel expected to be assigned to the project.

Professional Engineer	_____/ hour
Project Manager	_____/ hour
Staff Engineer	_____/ hour
CAD Technician	_____/ hour
Construction Administrator	_____/ hour
Additional:	_____/ hour
Additional:	_____/ hour

Please provide a brief description of each category including years of experience, certification, etc. You are welcome to add additional categories if not already listed.

APPENDIX V- INVOICING PROCEDURES

1. The City's Project Manager or his/her designee must review all invoices prior to payment.

2. The Engineer's invoice must contain sufficient detail by task and resource and should be easily traceable to the work completed on the project schedule. Descriptions used in the project schedule shall match those descriptions contained in the Engineer's invoice.

3. The work completed on the Engineer's project schedule must be the basis for full or percentage of completion payment on the Engineer's invoice.

4. The Engineer will not request payment for taxes on Professional Services, labor or installation fees.

5. The Engineer will not invoice, or request payment for any equipment or services that may be specified in this Agreement prior to the delivery of said equipment or performance of said services.

6. The Engineer shall adhere to an agreed-upon delivery schedule for equipment and/or services. This is to ensure that the City does not have to pay for the advanced delivery of equipment that it was not expecting in that timeframe and/or have to warehouse or make space for unanticipated equipment deliveries. Exceptions to this requirement must be approved by the City in writing.

7. All invoices shall include a valid Purchase Order number on the bill; if emergency purchases are required for any reason before a purchase order number is available, a copy of the emergency request for purchase should accompany the Engineer's invoice.

8. The Engineer shall name a representative that will be responsible for reviewing all invoicing concerns that the City may have concerning this project.

9. The Engineer shall submit receipts for all actual expenses.

10. Travel expenses including airfare and car rental shall be invoiced at cost, without markup and with approved documentation (Note: This section does not apply to travel within the Columbia region for work being performed for the Agreement but only pertains to travel to and from Columbia if necessary to fulfill the terms of the Agreement.).

11. Lodging shall be invoiced up to the per diem rate according to the GSA rates established at www.gsa.gov, based on the date of travel.

12. Field documents and other equipment/supplies shall be invoiced at cost only; no markup allowed and with approved documentation, and

13. Other required non-labor expenses as may be applicable to the project and pre-approved by the City shall be invoiced at cost only; no markup allowed and with approved documentation.

14. Each invoice/payment request shall identify the percentage and dollar amount that will be paid to the subcontractor and/or vendor for work performed and materials/products furnished. If required, the Engineer shall submit supporting documentation as required by the designated point of contact to support the amount being invoiced.

15. The Engineer shall provide the names of the subcontractors and/or vendors and a description of the work performed in the invoice/request for payment. The Engineer shall also provide a breakdown of the supplies and materials being billed by each subcontractor and/or vendor and the dollar amount to be reimbursed by the City.

Failure of the Engineer to follow these invoice requirements will result in the delay of payment of the invoices.

N. Prompt Payment to Subcontractors and Material Suppliers – Exhibit F

1. The Engineer is required to pay all Subcontractors and material suppliers for all work that the Subcontractor has satisfactorily completed, no later than twenty (20) calendar days after the Engineer has received payment from the City.
2. In addition, all Retainage amounts received from the City by the Engineer must be paid by the Engineer to the Subcontractor no later than fourteen (14) calendar days after the Subcontractor has, in the opinion of the Assistant City Engineer for Construction or his/her designee, satisfactorily completed its portion of the Work.

3. A delay in or postponement of payment to the Subcontractor or material supplier requires good cause and prior written approval of the Assistant City Engineer for Construction or his/her designee.

4. The Engineer is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms or other method to resolve all payment disputes.
5. The City will not pay the Engineer for work performed unless and until the Engineer ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with the City lien waivers, canceled checks (if requested), and the Engineer's sworn statement that it has complied with the prompt payment requirements. The Engineer must submit a Prompt Payment Affidavit, Subcontractor list which identifies each Subcontractor (both DBE and non-DBE) with their contract values and the date and amount of the last payment to such Subcontractor(s), with every payment request filed with the City, except for the first payment request, on every Agreement with the City.

6. Failure to comply with these prompt payment requirements is a breach of this Agreement. The City reserves the right to pursue any and all remedies permitted under law for breach of contract, including, but not limited to, Engineer debarment.

APPENDIX V – QUALIFICATION AND EXPERIENCE QUESTIONNAIRE

This form is Mandatory.

Failure to answer all of the following questions may result in disqualification and potentially a lower evaluation rating. If interested potential firms or contractors have any questions, contact the Gloria Saeed, Community Development Director, 803 545 3373. Completing this questionnaire does not guarantee any approval or prequalification of the bidder's submission. The City of Columbia reserves the right to reject any or all solicitations and to waive informalities in accordance with the City's procurement code and internal policies and procedures.

All requirements outlined in RFP-CD Multi-2019-01-RTB will be applicable and should be thoroughly reviewed prior to completing this form.

Section 1. GENERAL INFORMATION

1. a. General Company information (Primary/Main office location)

_____

Applicant Company Name

_____

Applicant Headquarters Address

_____

Applicant Local Office Address

_____

City/State Zip Code + 4

(_____) _____ (_____)

Phone number Fax number

_____

Name / Title / Phone No. of Person who can respond authoritatively to any questions about this statement.

_____

Primary Contact Name Secondary Contact Name

_____

Primary Contact Email Address Secondary Contact Email Address

_____
Tax ID No. (Social Security No., if sole proprietor)

Organization

1. b. Business type (check box) ☐ Corporation ☐ Partnership ☐ Limited Liability Company ☐ Sole Proprietor ☐ Joint Venture
1. c. Type of Work (check box) ☐ General Construction ☐ Electrical ☐ Mechanical ☐ Plumbing ☐ Other (please specify)
1. d. Licensing information (Please provide all South Carolina professional licenses required for you to perform your services.)
SC License Type (check box) ☐ General Construction ☐ Electrical ☐ Mechanical ☐ Plumbing ☐ Other (please specify)

SC License number	License Limit/Level	State/County/City
Privilege License (provide copy)		

_____
Name of organization in System for Acquisition Management (Sam.gov)

_____
Data Universal System (DUNS) Number

_____
Commercial and Government Entity (CAGE) Number

Bonding (NOT APPLICABLE)

1. e. (1) Attach letter, dated within the last 30 days, from your surety company, signed by their Attorney in Fact, verifying their willingness to issue sufficient payment and performance bonds for this project, on behalf of your firm or its agent licensed to do business in South Carolina, and verifying your company's capability and capacity based on your current value of work. Surety company bond rating shall be rated "A" or better under the A.M. Best Rating system or The Federal Treasury List.

Have you attached a surety letter? ☐ Yes ☐ No

1. e. (2) Have any funds been expended by a surety company on your firm's behalf? ☐ Yes ☐ No If yes, explain:

_____

_____

1. e. (3) List all surety companies that have provided bonds for your company for the past five (5) years, provide explanation, required, if more than one company.

Date	Firm	Reason
Date	Firm	Reason
Date	Firm	Reason

Insurance

1. f. Evidence of Insurance
In order to prequalify, contractors must indicate that they can provide evidence of insurance coverage, see below, as follows should they subsequently be the successful bidder. Do you agree? ☐ Yes ☐ No

Liability Insurance - The contractor shall procure and maintain for the duration of the contract insurance against claims for any injuries to persons or damages to property, which may arise form or in connection with the performance of the work by the contractor, his agents, or representatives, employees or subcontractors.
A.) **Owner & Contractor's Protective Liability Policy:** Issued in the City of Columbia an owner in an amount not less $2,000,000.00 per occurrence combined single limit for bodily injury, personal injury, and property damage with an aggregate liability not less than $2,000,000.00.
B.) **Commercial General Liability Insurance**: Coverage in an amount not less the 1,000,000.00 per occurrence, and $2,000,000.00 aggregate combined single limit for bodily injury, personal injury, and property damage, naming the City of Columbia as an additional insured.
C.) **Automobile Liability Insurance:** $500,000.00 combined single limit per accident for bodily injury and property damage.
D.) **Excessive Liability Insurance**: Naming the Contractor or other person who will be performing the activity as insured and also naming the City of Columbia as an additional insured in an amount no less than $10,000,000.00 for bodily injury, personal injury, property damage and products completed operations.

Size/Capacity

1. g. (1) How many full-time permanent employees work for the company?

_____

1. g. (2) If the company has more than one office location, how many full-time permanent employees work for the company at the location which will serve this project?

_____

Section 2. MANDATORY REQUIREMENTS

Company and Contractual Information

2. a. (1) Number of years in business as a contractor under the company name listed in 1.a., above: _____ years. List any other names your firm operated under previously.

1	2	3	4	5

2. a. (2) List date, State and type of incorporation, partnership, or proprietorship establishment:

_____

_____

Date State/Type (incorporation, partnership/proprietorship)

1. a. (3) Is the Applicant related to another firm as a parent, subsidiary, or affiliate? ☐ Yes ☐ No
If yes, give names and addresses of all affiliated parent and/or subsidiary companies.

_____

_____

_____

2. a. (4) List names of the firm principals appropriate to the type of the firm:
Corporation: President, Vice-president, Secretary, Treasurer
Partnership: Partners
Proprietorship: Owner
Other: List and explain

Title: _____ Full Name: _____ Yrs. Service: _____

Title: _____ Full Name: _____ Yrs. Service: _____

Title: _____ Full Name: _____ Yrs. Service: _____

Title: _____ Full Name: _____ Yrs. Service: _____

2. a. (5) Submit a copy of your current organization chart showing number of employees by discipline and the names and titles.

2. a. (6) Has your company ever performed substantially similar services and size as the City ☐ Yes ☐ No (Attach additional page if necessary)
If your company has performed work for the City of Columbia, you must state below.

If yes, list the name of the agency/entity, dollar value, owner and contact names, contact phone numbers and contract dates for all contracts completed (or current) within the last five (5) years.

Entity	Dollar Value	Owner Agency Contact Name	Contact Phone Number	Contract Dates

2. **a. (7)** Within the last 5 years, has your organization been pre-qualified to bid on a substantially similar project and failed to submit a bid without notice of good cause before final bid date?
☐ Yes ☐ No If yes, on a separate sheet list name of project and reason you did not submit a bid.

Developer Structure

2. b. (1) Qualifications – Provide structure reflecting authority, responsibility and proportion of time dedicated to this contract. You must include names of key personnel and their qualifications for the prime.

2. b. (2) Availability – The City anticipates this project work to begin in the second quarter of 2019. Are key personnel also proposed on any other projects for which bidding and contracting is pending? ☐ Yes ☐ No If yes, describe general availability and qualifications of potential substitutes.

Past Performance / Workload

2. c. (1) How many projects do you currently have under contract or in progress and what is their total dollar value?

- _____ (#) of projects
- $ _____ (Current projects contract amount)

2. c. (2) List your three largest projects within the past five years. References must be for different projects and include specific information.

#1 –Entity Name	
Description of Work Performed	
Owner Name/ Representative	
Owner Address	
Client Project Manager	
Client Project Manager Phone No. and Email	
Value	

Status of Project (Complete or In Progress)	
If In Progress, what stage?	
Contract State Date	
Contract End Date	

#2 –Entity Name	
Description of Work Performed	
Owner Name/ Representative	
Owner Address	
Client Project Manager	
Client Project Manager Phone No. and Email	
Value	
Status of Project (Complete or In Progress)	
If In Progress, what stage?	
Contract Start Date	
Contract End Date	

#3 –Entity Name	
Description of Work Performed	
Owner Name/ Representative	
Owner Address	
Client Project Manager	
Client Project Manager Phone No. and Email	
Value	
Status of Project (Complete or In Progress)	
If In Progress, what stage?	
Contract Start Date	
Contract End Date	

Similar Work

2. d. (1) List projects that you completed for similar services. (This can be a project listed in 2. B. (2).)

Entity Name	
Description of Work Performed	
Owner Name/ Representative	
Owner Address	
Client Project Manager	

2. d. (2) Provide a narrative of project highlights from 2. d. (1).

Litigation/Claims

2. e. (1) Has your company ever failed to complete work awarded to it? ☐Yes ☐No
If yes, please provide project name(s), contact information for owner, year(s), and reason why. Attach relevant documentation.

2. e. (2) Have you ever paid liquidated damages on any project? ☐Yes ☐No If yes, state the project name(s), year(s), and reason why.

2. e. (3) Has your company filed any claims on any previous services within the last five years?
☐Yes ☐ No If yes, state the entity name(s), year(s), case number, and reason why.

2. e. (4) Has your present company, its officers, owners, or agents ever been convicted of charges relating to conflicts of interest, bribery, or bid-rigging? ☐ Yes ☐ No If yes, state the entity name(s), year(s), and reason why:

2. e. (5) Has your present company ever been suspended or debarred? ☐ Yes ☐ No If yes, state the year(s) and reason why:

2. e. (6) Has your present company principal (officer, director, or owner thereof) had any judgments entered against him within the past ten years for breach of Agreements for governmental or non-governmental construction, including but not limited to design-build or construction management? ☐ Yes ☐ No If yes, provide details of any such judgment:

2. e. (7) Has your present company been found to be in substantial noncompliance with the terms and conditions of prior agreements with City of Columbia without good cause? ☐ Yes ☐ No If yes, provide details of such instance:

_____

_____

2. c. (8) Has your present company been found to be in substantial noncompliance with the terms and conditions of prior agreements with any other public body without good cause?
☐ Yes ☐ No If yes, provide details of such instance: _____

_____

_____

Section 3. PROJECT SPECIFIC REQUIREMENTS

References

3. a. Please identify three (3) references most closely reflecting the type of development being requested for the proposed project. The substantially similar projects should have been completed within the last five (5) years. If the contractor has performed work for the City of Columbia, in the past or currently, the City must be stated as an additional reference (#4) to the three required non-City of Columbia references.

#1	
Entity Name	
Owner Name/ Representative	
Owner Address/Phone #	
Contract Dollar Value	
Contract Start Date	
Contract End Date	
Reference Letter Attached (y/n)	

#2	
Entity Name	
Owner Name/ Representative	
Owner Address/Phone #	
Contract Dollar Value	
Contract Start Date	
Contract End Date	
Reference Letter Attached (y/n)	

#3	
Entity Name	

Owner Name/ Representative	
Owner Address/Phone #	
Contract Dollar Value	
Contract Start Date	
Contract End Date	
Reference Letter Attached (y/n)	

#4	**City of Columbia Reference Only, if applicable**
Owner Name/ Representative	
Contract Dollar Value	
Contract Start Date	
Contract End Date	
Reference Letter Attached (y/n)	

[General project references were requested in section 2. a. (4), based on a "Yes" response, and 2. b. (2). If this comparable project information is already reflected in those responses, please simply identify the relevant projects and detailed information.]

Signature

By signing this document, you are acknowledging that all answers are true to the best of your knowledge.
Submitted by:

_____

Company Name

_____

Physical Address

_____

Mailing Address

a. Dated this day of: _____

Submitted by: _____ _____

Signature by Authorized Officer Print Title of Authorized Officer

Phone: _____
Contact person's phone number

Email: _____
Contact person's E-mail address

b. Notary Certification:

South Carolina _____ County

I, a Notary Public of the County and State aforesaid, certify that _____, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this the _____ day of _____, 20_____

(Official Notary Seal or Stamp)

_____
Signature of Notary Public

My commission expires _____

COMMUNITY DEVELOPMENT
CITY OF COLUMBIA

City of Columbia
Community Development Department

Conditions of Federal Funding and Federal Labor Standards Provisions For Contractors

Revised 8/22//2018

COMMUNITY DEVELOPMENT
CITY OF COLUMBIA

CONDITIONS OF FEDERAL FUNDING for Contractors

HUD FEDERAL GRANT REQUIREMENTS AND DAVIS BACON ACT

Forms, requirement information and Community Development required documents that must be completed to meet Federal Guidelines for this Grant Funded project shall be available upon request, posted online and/or attached to this document.

DAVIS BACON

The Contractor and any Subcontractors agree to comply with the requirements of the Secretary of Labor in accordance with Davis-Bacon Act as amended, the provisions of Contract: Work Hours and Safety Standards Act, the Copeland "Anti- Kickback" Act and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Contractor and any Subcontractors shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Contractor and any Subcontractors for review upon request.

SECTION 3

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Contractor, the Subcontractor and any of the Subcontractor's Subcontractor's. Failure to fulfill these requirements shall subject the Contractor, the Subcontractor and any of the Subcontractor's Subcontractor's, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Contractor certifies and agrees that no contractual or other disability exist which would prevent compliance with these requirements.

The Contractor further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is an activity assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low-and very low-income residents of the activity area and contracts for work in connection with the activity be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the activity is located."

The Contractor further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction activity are given to low- and very low-income persons residing within the metropolitan area in which the CDBG funded activity is located; where feasible, priority should be given to low- and very low-income persons within the service area of the activity or neighborhood in which the activity is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection to housing

rehabilitation, housing construction, or other public construction activity are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which CDBG-funded activity is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low -income residents within the service area or neighborhood in which the activity is located, and to low- and very low-income participants in other HUD programs.

ENVIRONMENTAL STANDARDS

This Agreement is subject to the National Environmental Policy Act of 1969, as detailed in implementing regulations 24 CFR Part 58. **No funds related to the project or activity can be obligated or expended until an Environmental Clearance Authorization is completed** and the contract is executed. Any expenditures for a program that takes place before the execution of a contract and the completion of the Environmental Clearance **cannot** be reimbursed. The City is responsible for providing the Subrecipient the HUD required Environmental Clearance Authorization.

USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS OR CONTRACTORS

This Agreement is subject to the requirements set forth in 24 CFR Part 5, in which is incorporated 24 CFR Part 24, which provides for the listing of debarred and suspended participants, participants declared ineligible, and participants who have voluntarily excluded themselves from participation in covered transactions pursuant to Part 24.

DRUG-FREE WORKPLACE

As a Sub-grantee of CDBG funds, and in connection with public services offered, the Contractor agrees that it shall comply with the provisions of the Drug-Free Workplace Act of 1988, 24 CFR Part 21, which requires that the Contractor shall maintain an environment free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

ANTI-LOBBYING

Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, prohibits the Contractor from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor 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 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.

AMERICANS WITH DISABILITIES ACT

The Contractor agrees to comply fully with any and all provisions of the Americans with Disabilities Act (hereinafter referred to as "ADA") as applicable to the activities to be performed by the Contractor under the scope of this Agreement. If employing more than fifteen (15) employees, the Contractor agrees to comply fully with Title I of the "ADA" as set forth at 28 CFR Part 130. If providing "public accommodations" as defined by the Act in Section 301(7)(A)-(L), the Contractor agrees to comply fully with Title III of the "ADA" as set forth at 28 CFR Part 36.

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. **Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. **(i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *http://www.dol.gov/esa/whd/forms/wh347instr.htm* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant ',to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than $5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.