



Paperless Process & Workflow Solutions

RFP 7.26.23: Paperless Process & Workflow Solutions

Publication of Proposal: Thursday, July 26, 2023 8:00am EST

Submission of Proposal Deadline: Friday, August 25, 2023 12:00pm EST

TABLE OF CONTENTS

[Table 1]

| Section | Description | Page |
|---------|---|------|
| 1.0 | Fort Wayne Housing Authority (FWHA) Contact | 3 |
| 2.0 | Applicability | 3 |
| 3.0 | FWHA's Reservation of Rights | 3 |
| 4.0 | Scope of Work | 5 |
| 5.0 | Bidder's Responsibility | 5 |
| 6.0 | Proposal Format | 6 |
| 7.0 | Proposal Submission | 7 |
| 8.0 | Questions | 9 |
| 9.0 | Hold Prices/Non-Escalation | 9 |
| 10.0 | Proposal Evaluation | 9 |
| 11.0 | Right to Protest | 13 |
| 12.0 | Disputes Under the Contract | 13 |
| 13.0 | Additional Considerations | 14 |
| 14.0 | Fees | 23 |
| 15.0 | Bid Costs | 23 |
| 16.0 | Assignments of Personnel | 24 |
| 17.0 | Section 3 | 24 |
| 18.0 | General Conditions | 24 |

OVERVIEW

The Housing Authority of the City of Fort Wayne, Indiana and its affiliate entities d/b/a Fort Wayne Housing Authority ("FWHA") hereby invites qualified software companies to submit bids for purposes of providing Data Management Software Solutions and support services for Fort Wayne Housing Authority.

RFP INFORMATION AT A GLANCE

[Table 2]

| | |
|--|--|
| Contact Person | Jessica Matuska jmatуска@fwha.org |
| How to obtain the RFP Documents on the applicable Internet Site | www.fwha.org Procurement Portal |
| Pre-Proposal Conference | N/A |
| How to fully respond to this RFP by submitting a Proposal Submittal | As directed within Section 6.0 of the RFP document. Proposals will be accepted via email only. All required forms can be found at fwha.org/procurement under "Procurement Forms". The file is titled RFP Attachments. |
| Submission of Proposal Deadline | Friday, August 25, 2023 at 12:00pm EST* *The proposal must be received and time-stamped by FWHHA email server no later than 12:00 PM EST on this date. |
| Anticipated Approval by HA Executive Director and/or HA Board of Commissioners | Friday, September 15, 2023 |

1. **FORT WAYNE HOUSING AUTHORITY (FWHA) CONTACT:** All questions or request for documents pertaining to this solicitation shall be addressed to: Jessica Matuska at jmatуска@fwha.org.
2. **APPLICABILITY:** By submitting a bid, the bidder is agreeing to abide by all terms and conditions listed herein, including those terms and conditions within HUD Handbook 7460.8 REV 2, Procurement Handbook for Public Housing Agencies, dated 2/2007 and HUD Table

5.1, Mandatory Contract Clauses for Small Purchases Other than Construction and if attached HUD 5370EZ, Davis Bacon or HUD Wage Decision.

3. **FWHA's RESERVATION OF RIGHTS:** FWHA reserves the right to:
 - 3.1 FWHA reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by the FWHA to be in its best interests.
 - 3.2 FWHA reserves the right not to award a contract pursuant to this RFP.
 - 3.3 FWHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon fourteen (14) days written notice to the successful proposer(s).
 - 3.4 FWHA reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
 - 3.5 FWHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of sixty (60) days subsequent to the deadline for receiving proposals without the written consent of the FWHA Contract Administrator (CA).
 - 3.6 FWHA reserves the right to negotiate the fees proposed by the proposer entity. If such negotiations are not, in the opinion of FWHA's CA, successfully concluded within a reasonable timeframe as determined by FWHA, FWHA shall retain the right to end such negotiations.
 - 3.7 FWHA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
 - 3.8 FWHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
 - 3.9 FWHA shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. Each prospective proposer further agrees that he/she will inform FWHA's CA in writing within five (5) days of the discovery of any item that is issued thereafter by FWHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve FWHA, but not the prospective proposer, of any responsibility pertaining to such issue.
 - 3.10 FWHA reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on FWHA's website www.fwha.org in the Procurement Portal. Changes issued before the proposal submission deadline shall be binding upon all prospective proposers.
 - 3.11 In the case of rejection of all proposals, FWHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of FWHA, the best interest of FWHA will be promoted.
 - 3.12 FWHA reserves the right to, without any liability; cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.

- 3.13 FWHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to FWHA, if:
 - 3.14 Funding is not available,
 - 3.15 Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
 - 3.16 FWHA's requirements in good faith change after award of the contract.
 - 3.17 FWHA reserves the right to make an award to more than one proposer based on ratings and to award with or without negotiations or a "Best and Final Offer" (BAFO).
 - 3.18 FWHA reserves the right to require additional information from all proposers to determine level of responsibility. Such information shall be submitted in the form required by FWHA within two (2) days of written request.
 - 3.19 FWHA reserves the right to amend the contract any time prior to contract execution.
 - 3.20 FWHA reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this RFP and any resulting contract.
 - 3.21 FWHA reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the proposer regardless of their inclusion in the reference section of the proposal submittal.
 - 3.22 In the event any resulting contract is breached, prematurely terminated or cancelled due to non-performance and/or withdrawal by the Contractor, FWHA reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (difference between existing Contracted rate and new Contract rate) beginning the date of Contractor's termination, breach and/or cancellation through the contract expiration date.
 - 3.23 FWHA reserves the right to require the Contractor to replace any employee, subcontractor, or other individuals and/or entities, found to be unacceptable, performing work under any contract resulting from this RFP. Replacement shall occur within two (2) days of notification by FWHA.
 - 3.24 FWHA must maintain appropriate records (payrolls, work orders, job descriptions, training program materials and apprentice/trainee registrations and any other data related to the employment and utilization of maintenance laborers and mechanics) which must be preserved for no less than three years or until resolution of any dispute. Employers under contract to FWHA to provide maintenance work must submit to FWHA their original employment records as described above or agree to retain the original employment records for three years or until resolution of any dispute subject to this solicitation.
4. **SCOPE OF WORK:** Fort Wayne Housing Authority (FWHA) is seeking proposals from interested and qualified companies who have experience with providing software and services to meet the needs for a paperless electronic record system. It is FWHA's intention to

move to a paperless environment for all of its core processes. Since the majority of our paper documents relate to tenant processing, this is our primary focus. However, we expect to remove paper from most of our other processes also. The areas include Accounts Payable, Contract Administration, Procurement, Human Resources and other 'back office' processes. Note that 'paperless' refers to dramatically minimizing the use of paper in our processes. We do not expect to completely eliminate the use of paper. We do expect the solution to address process, and improve workflows, and therefore the objective is not simply to eliminate file cabinets by scanning documents after the fact.

5. **BIDDER'S RESPONSIBILITY:** Each bidder shall carefully review and comply with all instructions provided herein, or provided within any named attachments or addenda.
6. **PROPOSAL FORMAT:**
 - 6.1 **Proposal Submittal:** The HA intends to retain the successful proposer pursuant to a "Best Value" basis, not a "Low Proposal" basis ("Best Value," in that the HA will, as detailed within the following Section 4.0, consider factors other than just cost in making the award decision). Therefore, so that the HA can properly evaluate the offers received, all proposals in response to this RFP, must be formatted in accordance with the sequence noted following. Each category must be separated by a section divider labeled with the corresponding tab reference also noted below. None of the proposed services may conflict with any requirement the HA has published herein or has issued by addendum. All forms listed below can be found on the Procurement Portal at fwha.org/procurement under "Procurement Forms"

[Table 3]

| RFP Section | Tab No. | Description |
|-------------|---------|--|
| 6.1.1 | 1 | Form of Proposal: This 1-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal. |
| 6.1.2 | 2 | Form HUD-5369-C (8/93), <i>Certifications and Representations of Offerors, Non-Construction Contract:</i> This 2-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal. |
| 6.1.3 | 3 | Profile of Firm Form: This 2-page Form must be fully completed, executed and submitted under this tab as a part of the proposal submittal. |
| 6.1.4 | 4 | Proposed Services: As more fully detailed within Section 4.0, <i>Scope of Work</i> , of this document, the proposer shall, at a minimum, clearly detail within the information submitted under this tab documentation showing: |
| 6.1.4.1 | | As detailed within Section 10.1, Evaluation Factor No. 1, herein, the Proposed Costs the proposer proposes to charge the HA to complete the required work. |
| 6.1.4.2 | | As detailed within Section 10.1, Evaluation Factor No. 2, herein, the proposer's Demonstrated Understanding of the HA's Requirements. |
| 6.1.4.3 | | As detailed within Section 10.1, Evaluation Factor No. 3, herein, the proposer's Technical Approach (including, if appropriate, labor |

| | | |
|---------|---|---|
| | | categories, estimated hours and skill mix) and the proposer's proposed Work Plan to provide the required services. |
| 6.1.4.4 | | As detailed within Section 10.1, Evaluation Factor No. 4, herein, the proposer's Technical Capabilities (in terms of personnel, equipment and materials) and Management Plan (including staffing of key positions, method of assigning work and procedures for maintaining level of service, etc.). |
| 6.1.4.5 | | As detailed within Section 10.1, Evaluation Factor No. 5, herein, the proposer's Demonstrated Experience in performing similar work and the proposer's Demonstrated Successful Past Performance (including meeting costs, schedules and performance requirements) of contract work substantially similar to that required by this solicitation. |
| 6.1.4.6 | | If appropriate, how staff are retained, screened, trained and monitored; |
| 6.1.4.7 | | An explanation and copies of forms that will be used and reports that will be submitted and the method of such reports (i.e. written; fax; internet; etc.); |
| 6.1.4.8 | | A complete description of the programs and services the firms provides. |
| 6.1.5 | 5 | Managerial and Staff Capacity: The proposer entity must submit under this tab a concise description of its managerial and staffing capacity to deliver the proposed programs and services, including brief professional resumes for the persons identified within areas (5) and (6) of Attachment C, <i>Profile of Firm Form</i> . Such information shall include the proposer's qualifications to provide the services; a description of the background and current organization of the firm. |
| 6.1.6 | 6 | Client Information: The proposer shall submit a listing of former or current clients, for whom the proposer has performed similar or like services to those being proposed herein. The listing shall, at a minimum, include: |
| 6.1.6.1 | | The client's name; |
| 6.1.6.2 | | The client's contact name; |
| 6.1.6.3 | | The client's telephone number; |
| 6.1.6.4 | | A brief description and scope of the programs and service(s) and the dates the services were provided; |
| 6.1.7 | 7 | Section 3 Business Preference Documentation (Optional Item): For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Certification Form attached hereto as Attachment E and any documentation required by that form. |
| 6.1.8 | 8 | Other Information (Optional Item): The proposer may include hereunder any other general information that the proposer believes is appropriate to assist the HA in its evaluation. |

7. **PROPOSAL SUBMISSION:** Bids are due at the time and date posted herein. FWHA reserves the right to extend the posted deadline at any time prior to the deadline.

- 7.1 Time for Receiving Proposals:** Proposals received prior to the proposal submittal deadline shall be securely kept, unopened, by FWHA. The CA, whose duty it is to open such proposals, will decide when the specified time has arrived. No proposal received after the designated deadline shall be considered.
- 7.1.1** Proposers are cautioned that any proposal submittal that is time-stamped as being received by FWHA after the exact time set as the deadline for the receiving of proposals shall not be considered. Any proposals not submitted in a timely manner that are inadvertently opened shall be ruled invalid. No responsibility will attach to FWHA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and/or identified.
- 7.1.2** One electronic copy must be emailed as one full document which include all items listed within the "Proposal Submittal" section. The email should be sent to jmatuska@fwha.org and the subject should be as follows:
RFP 7.26.23: Paperless Process & Workflow Solutions
- 7.2 Withdrawal of Proposals:** Proposals may be withdrawn as detailed within the attached HUD Form(s). Negligence on the part of the proposer in preparing his/her proposal confers no right of withdrawal or modification of his/her proposal after such proposal has been received and opened.
- 7.2.1** Procedure to withdraw a proposal: A request for withdrawal of a proposal due to a purported error need not be considered by FWHA unless filed in writing by the proposer within 48 hours after the proposal deadline. Any such request shall contain a full explanation of any purported error and shall, if requested by FWHA, be supported by the original calculations on which the proposal was computed, together with a certification and notarization thereon that such computation is the original and was prepared by the proposer or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as FWHA retains the right to accept or reject any proposed withdrawal for a mistake.
- 7.3 Exceptions to Specifications:**
- 7.3.1** A prospective proposer may take exception to any of the proposal documents or any part of the information contained therein, by submitting, in writing to the named FWHA Contact Person, at least seven (7) days prior to the proposal submission deadline, a complete and specific explanation as to what he/she is taking exception. Proposed alternate documents or information must also be included. FWHA reserves the right to agree with the prospective proposer and issue a revision to the applicable RFP requirements, or may reject the prospective proposer's request.
- 7.3.2** When taking exception, prospective proposers must propose products and or services that meet the requirements of the RFP documents. Exceptions to the specification and/or approved "equal" requests may be discussed at

the scheduled pre-proposal conference (if scheduled). Any verbal instructions provided by any FWHA staff shall only become official and binding when issued as an addendum or as a written answer issued by addendum pursuant to receipt of a written question by FWHA.

7.4 Proposed Costs:

7.4.1 Fee Costs: Each proposer must enter the proposed cost to FWHA for the listed project. Your proposed fee is inclusive of all necessary costs to provide the proposed services, including, but not limited to: employee costs and benefits; travel & per diem; clerical support; overhead; profit; supplies; materials; licensing; insurance; etc. Please note that the fee proposal for this service is inclusive of all elements as specified herein and the fee proposed shall be fully “burdened” with profit, overhead and all other associated costs to deliver indicative outcomes.

7.4.2 Additional Related Work that May Be Required: Please note FWHA may retain the Contractor, if it is deemed by FWHA to be in its best interest, to perform additional services at fees proposed by the Contractor in their unit price response.

7.4.3 Proposal Submittal: One electronic copy must be emailed as one full document which include all items listed within the “Proposal Submittal” section. The email should be sent to jmatuska@fwha.org and the subject should be as follows:
 RFP 7.26.23: Paperless Process & Workflow Solutions
 and must be received via email and time-stamped by the HA by no later than 12:00 p.m. on the specified date.

8. **QUESTIONS:** All questions or request for information concerning this solicitation must be submitted by Friday, August 11th, 2023 at 12:00pm EST. All questions received by this date will be answered and posted on the webpage of the bid opportunity no later than Wednesday, August 16th at 5:00pm EST.

9. **HOLD PRICES/NON-ESCALATION:** By submitting a bid, the bidder agrees to “hold” or not increase the bid prices for a minimum period of ninety (90) days. Quantities listed in this solicitation are for the purpose of determining best pricing per line item.

10. PROPOSAL EVALUATION:

10.1 **Evaluation Factors:** The following factors will be utilized by the HA to evaluate each proposal submittal received; award of points for each listed factor will be based upon the documentation that the proposer submits within his/her proposal submittal:

[Table 4]

| NO. | Max Point Value | Factor Type | Factor Description |
|-----|-----------------|-------------|---|
| 1 | 25 Points | Objective | The PROPOSED COSTS the proposer proposes to charge the HA to complete the required work. |
| 2 | 15 Points | Subjective | The proposer's DEMONSTRATED UNDERSTANDING of the REQUIREMENT ; |
| 3 | 15 Points | Subjective | The APPROPRIATENESS of the TECHNICAL APPROACH (including labor categories, estimated |

| | | | |
|------------|-----------|------------|--|
| | | | hours and skill mix) and the QUALITY of the WORK PLAN |
| 4 | 20 Points | Subjective | The proposer's TECHNICAL CAPABILITIES (in terms of personnel, equipment and materials) and the MANAGEMENT PLAN (including staffing of key positions, method of assigning work and procedures for maintaining level of service, etc.). |
| 5 | 20 Points | Subjective | The proposer's DEMONSTRATED EXPERIENCE in performing similar work and the proposer's DEMONSTRATED SUCCESSFUL PAST PERFORMANCE (including meeting costs, schedules and performance requirements) of contract work substantially similar to that required by this solicitation as verified by reference checks or other means. |
| 6 | 5 Points | Subjective | The OVERALL QUALITY AND PROFESSIONAL APPEARANCE OF THE PROPOSAL SUBMITTED , based upon the opinion of the evaluators. |
| 100 POINTS | | | TOTAL POINTS (other than preference points) |

10.1.1 **Preference Evaluation Factor:** The following factors will be utilized by the ED to evaluate each proposal submittal received:

[Table 4a]

| NO. | Max Point Value | Factor Type | Factor Description |
|-----------|-----------------|-------------|--|
| 7 | | Objective | SECTION 3 BUSINESS PREFERENCE PARTICIPATION: A firm may qualify for Section 3 status as detailed within Profile of Firm Form (NOTE: A max of 5 points awarded). |
| 7a | 3 Points | | MINORITY OWNED BUSINESS PREFERENCE PARTICIPATION: A firm may qualify for MBE status as detailed within Profile of Firm Form (NOTE: A max of 5 points awarded). |
| 7b | 3 Points | | WOMEN OWNED BUSINESS PREFERENCE PARTICIPATION: A firm may qualify for WBE status as detailed within Profile of Firm Form (NOTE: A max of 5 points awarded).. |
| 15 POINTS | | | MAXIMUM PREFERENCE POINTS (additional) |

| | |
|-----|------------------------------|
| 115 | TOTAL POSSIBLE POINTS |
|-----|------------------------------|

10.1.2 **Initial Evaluation-Responsiveness:** Each proposal received will first be evaluated for responsiveness (i.e., meeting the minimum requirements as stated in the RFP).

10.1.3 **Evaluation - Responsibility:** FWHA shall select a minimum of a three-person panel, using the criteria established below, to evaluate each of the proposals submitted in response to this RFP to determine the proposer's level of responsibility. FWHA will consider capabilities or advantages that

are clearly described in the proposal that may be confirmed by oral presentations, site visits, demonstrations, and/or references contacted by FWHA. All proposals would be evaluated as to their overall value to FWHA.

10.1.4 Restrictions: All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer will be excluded from participation on FWHA's evaluation panel. Similarly, all persons having ownership interest in and/or contract with a proposer will be excluded from participation on FWHA's evaluation panel.

10.1.5 Competitive Range: Once a competitive range is established from the proposals submitted, FWHA reserves the right to require Proposers within the competitive range to make a presentation to the evaluation committee. Presentations, if requested, shall be a factor in the award recommendation.

10.1.6 Burden of Proof: If requested by FWHA, it shall be the responsibility of the proposer(s) to furnish FWHA with sufficient data or physical samples, within a specified time, so that FWHA may determine if the goods or services offered conform to the specifications.

10.2 Mistake in Proposal Submitted:

10.2.1 Unless otherwise prohibited within the RFP documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at FWHA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to the FWHA CA, for his/her review. This mistake must be corrected before the issuance of any contract documents. Such correction shall not operate to give any proposer an advantage over another.

10.3 Irregular Proposal Submittal: A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at FWHA's discretion, be reason for rejection:

10.3.1 If the forms furnished by FWHA are not used or are altered or if the proposed costs are not submitted as required and where provided.

10.3.2 If all requested completed attachments do not accompany the proposal submittal.

10.3.3 If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the proposer submitting the same a competitive advantage over other proposers.

10.3.4 If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

10.3.5 If the individual cost proposal items submitted by a specific proposer are unbalanced in the sense that the listed price of any cost item departs by more than 25% from FWHA's cost estimate (if a cost estimate is determined) for that item.

- 10.4 **Disqualification of Proposers:** Any one or more of the following shall be considered as sufficient for the disqualification of a prospective proposer and the rejection of his/her proposal:
- 10.4.1 Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as Proposers for this or any future work with FWHA until such participant shall have been reinstated as a qualified bidder or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
 - 10.4.2 More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s).
 - 10.4.3 Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
 - 10.4.4 Unsatisfactory performance record as shown by past work for FWHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.
 - 10.4.5 Incomplete work, which in the judgment of FWHA, might hinder or prevent prompt completion of additional work, if awarded.
 - 10.4.6 Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
 - 10.4.7 Failure to comply with any qualification requirements of FWHA.
 - 10.4.8 Failure to list, if required, all subcontractors (if subcontractors are allowed by FWHA) who will be employed by the successful proposer(s) to complete the work of the proposed contract.
 - 10.4.9 As required by the RFP documents, failure of the successful proposer to be properly licensed by the City, County and/or the State of Texas and/or to be insured by a commercial general liability policy and/or worker's compensation policy and/or business automobile liability policy, as applicable. If a proposer receives an award unless otherwise waived in the Contract, the Contractor will be required to provide an original Certificate of Insurance confirming the following minimum requirements to FWHA within 10 days of contract signature:

| Professional Liability | Required Limits |
|---|-----------------|
| FWHA and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to FWHA such as appraisers, inspectors, attorneys, engineers or consultants. | \$1,000,000 |
| Business Automobile Liability | Required Limits |

| | |
|---|---|
| FWHA and its affiliates must be named as an additional insured and as the certificate holder. Must include both owned and unowned vehicles. | \$500,000 combined single limit, per occurrence |
| Workers Compensation and Employer's Liability | Required Limits |
| Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000. A waiver of Subrogation in favor of FWHA must be included in the Workers' Compensation policy. FWHA and its affiliates must be named as a Certificate Holder. | Statutory \$500,000 |
| Commercial General Liability | Required Limits |
| This is required for any vendor who will be doing hands-on work at FWHA properties. FWHA and its affiliates must be named as an Additional Insured and as the Certificate Holder. | \$1,000,000 per accident \$2,000,000 aggregate |

10.4.10 Any reason to be determined in good faith, to be in the best interests of FWHA.

10.5 **Award of Proposal(s):** The award shall be to the top-rated responsive and responsible proposer(s) determined by the evaluation process, presentations (if requested), negotiations, Best & Final Offers (BAFO), FWHA's business needs, Proposer's ability to deliver within budget the specified items in a timely manner. Proposers shall be recommended for award if in FWHA's opinion, it is in the best interest to accept the proposal. FWHA reserves the right to award multiple contracts and will not consider "All or None" proposals or bids.

11. RIGHT TO PROTEST:

11.1 Rights: Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures. Disagreements with the evaluators' judgments as to the number of points scored are not reasons for an appeal. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

11.1.1 An alleged aggrieved "protestant" is a prospective proposer who feels that he/she has been treated inequitably by FWHA and wishes FWHA to correct the alleged inequitable condition or situation. To be eligible to file a protest with FWHA pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e. recipient of the RFP documents) when the alleged situation occurred. FWHA has no obligation to consider a protest filed by any party that does not meet these criteria.

11.1.2 Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of FWHA's procurement policy. Any protest against a FWHA solicitation must be received before the due date for receipt of Proposals or proposals and any protest against the award of

a contract must be received within ten (10) calendar days after contract award or the protest will not be considered.

- 11.1.3** All protests must be in writing and submitted to the Procurement Manager for a written decision. The Procurement Manager shall make a recommendation to the Contracting Officer who shall issue a written decision and findings to the Contractor within thirty (30) days from receipt of the written protest. This decision is then appealable to the Board of Commissioners within thirty (30) days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the example below:

APPEAL OF RFP 7.26.23: Paperless Process
& Workflow Solutions
Fort Wayne Housing Authority
7315 Hanna Street
Fort Wayne, IN 46816

12. DISPUTES UNDER THE CONTRACT:

- 12.1 **Procedures:** In addition to the procedures detailed within Form HUD-5370-C1 (10/2006), General Conditions for Non-Construction Contracts, Public Housing Programs, in the event that any matter, claim, or dispute arises between the parties, whether or not related to this RFP or any resulting contract, both parties shall be subject to nonbinding mediation if agreed to by both parties within thirty days of either party making a request in writing. The parties further agree that if the matter, claim or dispute is not settled during mediation, it shall thereafter be submitted to binding arbitration. The parties shall make a good-faith attempt to mutually agree upon an arbitrator. If the parties cannot mutually agree upon an arbitrator after reasonable efforts have been exerted, then the matter, claim or dispute shall be submitted to the American Arbitration Association for final and binding arbitration. Unless extended by the arbitrator for good cause shown, the final arbitration hearing shall begin no later than two months after selection of the arbitrator.

13. ADDITIONAL CONSIDERATIONS:

- 13.1 **Escalation:** This is a Firm Fixed Price Contract with no escalation provisions.
- 13.2 **Required Permits and Licenses:** Unless otherwise stated in the RFP documents, all Federal, State or local permits and licenses which may be required to provide the services ensuing from any award of this RFP, whether or not they are known to either the FWHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and all offers submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits or licenses.
- 13.3 **Taxes:** All persons doing business with FWHA are hereby made aware that FWHA is exempt from paying Texas State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.

- 13.4 **Government Standards:** It is the responsibility of the prospective proposer to ensure that all items and services proposed conform to all local, state and federal law concerning safety (OSHA) and environmental control (EPA and Tarrant County Regulations) and any other enacted ordinance, code, law or regulation. The successful proposer shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful proposer for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 13.5 **Free on Board (FOB) and Delivery:** All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the locations specified within the RFP documents or within the Contract. All costs in the proposal submittal shall be quoted as FOB Destination, Freight Prepaid and allowed unless otherwise stated in this RFP.
- 13.5.1 The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful proposer. Upon default, the successful proposer agrees that FWHA may, at its option, rescind the finalized contract under the termination clause herein and seek compensatory damages as provided by law.
- 13.6 **Work on FWHA Property:** If the successful proposer's work under the contract involves operations by the successful proposer on FWHA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, shall indemnify FWHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subcontractors.
- 13.7 **Warranty:**
- 13.7.1 The services provided under the contract shall conform to all information contained within the RFP documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.
- 13.7.2 The liability of the successful proposer to FWHA arising out of the furnishing of services/goods under the terms of the contract shall not exceed the correcting of the defect(s) in the services/goods provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose. However, this limitation does not preclude FWHA from seeking indirect, consequential, incidental exemplary, and liquidated damages.

- 13.8 **Official, Agent and Employees of the FWHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the FWHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 13.9 **Subcontractors:** Unless otherwise stated within the RFP documents, the successful proposer may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the FWHA. Also, any substitution of subcontractors must be approved in writing by FWHA prior to their engagement.
- 13.10 **Salaries and Expenses Relating to the Successful Proposer's Employees:** Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 13.11 **Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the successful proposer is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 13.12 **Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 13.13 **Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 13.14 **Time of the Essence:** Time is of the essence as to each provision in which a timeframe for performance is provided in this RFP. Failure to meet these timeframes may be considered a material breach, and FWHA may pursue compensatory and/or liquidated damages under the contract.
- 13.15 **Limitation of Liability:** In no event shall FWHA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.
- 13.16 **Indemnity:** The Contractor shall indemnify and hold harmless FWHA and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for, or on account of any personal injury or property damage received or sustained by any persons or property growing out of, occurring, or attributable to any work performed

under or related to this Agreement, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor, AND REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF FWHA. CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT, SURVIVES TERMINATION OF THIS AGREEMENT, AND APPLIES TO CLAIMS AND LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF FWHA.

- 13.17 **Public/Contracting Statutes:** FWHA is a governmental entity as that term is defined in the procurement statutes. FWHA and this RFP and all resulting contracts are subject to federal, state and local laws, rules, regulations and policies relating to procurement.
- 13.18 **Termination:** Any contract resulting from this RFP may be terminated under the following conditions:
- 13.18.1 By mutual consent of both parties, and
 - 13.18.2 **For Termination for Cause:** As detailed within Form HUD-5370-C (11/2006), General Conditions for Construction Contracts, Public Housing Programs, attached hereto:
 - 13.18.2.1 FWHA may terminate any and all contracts for default at any time in whole or in part, if the contractor fails to perform any of the provisions of any contract, so fails to pursue the work as to endanger performance in accordance with the terms of the RFP or any resulting contracts, and after receipt of written notice from FWHA, fails to correct such failures within seven (7) days or such other period as FWHA may authorize or require.
 - 13.18.2.1.1 Upon receipt of a notice of termination issued from FWHA, the Contractor shall immediately cease all activities under any contract resulting from this RFP, unless expressly directed otherwise by FWHA in the notice of termination.
 - 13.18.2.1.2 FWHA may terminate any contract resulting from this RFP in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.
 - 13.18.3 **Termination for Convenience:** In the sole discretion of the Contracting Officer, FWHA may terminate any and all contracts resulting from this RFP in whole or part upon fourteen days prior notice to the Contractor when it is determined to be in the best interest of FWHA.
 - 13.18.4 The rights and remedies of FWHA provided under this section are not exclusive and are in addition to any other rights and remedies provided by law or under any contract.

13.18.5In the event the resulting contract from this RFP is terminated for any reason, or upon its expiration, FWHA shall retain ownership of all work products including deliverables, source and object code, microcode, software licenses, and documentation in whatever form that may exist. In addition to any other provision, the Contractor shall transfer title and deliver to FWHA any partially completed work products, deliverables, source and object code, or documentation that the Contractor has produced or acquired in the performance of any resulting contract.

13.19 Examination and Retention of Contractor's Records: FWHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under all contracts executed as a result of this RFP, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audits, examinations, excerpts and transcriptions.

13.20 Invoicing (If applicable):

13.20.1 Contractor(s) will only be allowed to invoice for the cost of services/goods in compliance with his/ her proposal or best and final offer as accepted by FWHA.

13.20.2 Invoices must contain a complete description of the work or service that was performed, the contract price for each service, the purchase order number (if applicable), date of service, and address of service location or delivery address.

13.20.3 Contractor(s) must submit a separate invoice for each purchase order issued by FWHA. Each service delivery must have a separate and unique purchase order number.

13.20.4 FWHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. FWHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses. For more detail on progress payments refer to the attached Form 5370 (11-2006).

13.20.5 Upon the Award of Contract, Contractor shall receive a request from FWHA to process all payments electronically to insure prompt and efficient payment of all invoices.

13.20.6 If offered by Contractor, FWHA seeks a discount for early payment. FWHA shall only take such a discount if earned.

13.21 Inter-local Participation

13.21.1 FWHA may from time to time enter into Inter-local Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance FWHA's purchasing power. At FWHA's sole discretion and option,

FWHA may inform other Entities that they may acquire items listed in this RFP, if applicable. Such acquisition(s) shall be at the prices stated herein, and shall be subject to Contractor's acceptance.

13.21.2In no event shall FWHA be considered a dealer, remarketer, agent or other representative of Contractor or Entity. Further, FWHA shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

13.21.3Purchase orders shall be submitted to Contractor by the individual Entity.

13.21.4FWHA shall not be liable or responsible for any obligation, including but not limited to, payment and for any item or service ordered by an Entity, other than FWHA.

13.22 Right to Data and Patent Rights: FWHA shall have exclusive ownership of all, proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of any resulting contract, including but not limited to, reports, memoranda or letters concerning the research and reporting tasks of any resulting contract. Both parties agree to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent and Copyright Infringement.

13.23 Lobbying Certification: By proposing to do business with FWHA or by doing business with FWHA, each proposer certifies the following:

13.23.1No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of 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 any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

13.23.2If any funds other than Federally 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 undersigned shall complete and submit Standard Form "Disclosure Form to Report Lobbying", in accordance with its instructions.

13.23.3The successful proposer shall require that the language of this certification be included in the award documents for all sub-awards at all tiers, (including but not limited to subcontractors, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

13.23.4 This clause is a material misrepresentation of fact upon which reliance will be placed when the award is made or a contract is entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

- 13.24 Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to 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).
- 13.25 Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 13.26 Davis-Bacon Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5) and attached wage decision.
- 13.27 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 13.28 Clean Act Air:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) and any amendments.
- 13.29 Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94- 163, 89 STAT. 871) and any amendments.
- 13.30 Executive Order 11061:** Both parties agree that they will comply with this order, which directs the Secretary of HUD to take all action, which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 13.31 Public Law 88-352, Title VI of the Civil Rights Act of 1964, and its amendments:** Both parties agree that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. FWA hereby extends this requirement to the Contractor and its

subcontractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. Seq.).

- 13.32 **Public Law 90-284, Title VIII of the Civil Rights Act of 1968 and its Amendments (Fair Housing Act):** Both parties agree to comply and prohibit any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. As a result, FWA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 13.33 **Age Discrimination Act of 1975 and its amendments:** Requires the Contractor to prohibit discrimination on the basis of age.
- 13.34 **Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.) and its amendments:** FWA requires Contractors to comply with this law.
- 13.35 **HUD Information Bulletin 909-23:** Contractors shall comply with the following laws and regulations:
- 13.35.1 Notice of Assistance Regarding Patent and Copyright Infringement
 - 13.35.2 Clean Air and Water Certification
 - 13.35.3 Energy Policy and Conservation Act
- 13.36 **Copyrights/Rights in Data:** FWA has unlimited rights to any data, including computer software, developed by the Contractor in the performance of the Contract specifically:
- 13.36.1 Except as provided elsewhere in this clause, FWA shall have unlimited rights in data first produced in the performance of this Contract; form, fit, and function data delivered under this Contract; data delivered under this Contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this Contract; and all other data delivered under this Contract unless provided otherwise for limited rights data or restricted computer software.
 - 13.36.2 Contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this Contract, unless provided otherwise in this contract; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this contract; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this contract; and establish claim to copyright subsisting in data first produced in the performance of this Contract to the extent provided below.

- 13.36.3** For data first produced in the performance of this Contract, the contractor may establish, without prior approval of the CA, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this Contract. The Contractor grants FWHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of FWHA.
- 13.36.4** The Contractor shall not, without the prior written permission of the CA, incorporate in data delivered under this Contract any data not first produced in the performance of this Contract and which contains copyright notice, unless the Contractor identifies such data and grants FWHA a license of the same scope as identified in the preceding paragraph.
- 13.36.5** FWHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this Contract are improperly marked, FWHA may either at its discretion return the data to the Contractor or cancel or ignore the markings.
- 13.36.6** The Contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the Contractor's obligations under this Contract.
- 13.36.7** Notwithstanding any provisions to the contrary contained in the Contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this Contract, and irrespective of whether any such contract has been proposed prior to the award of this Contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the Contractor agrees that FWHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this Contract. The terms and conditions of any resulting contract, including any commercial lease or licensing contract shall be subject to the following procedures.
- 13.36.7.1** The restricted computer software delivered under a resulting contract may not be used, reproduced, or disclosed by FWHA except as provided below or as expressly stated otherwise in a resulting contract. The restricted computer software may be used accordingly:
- 13.36.7.1.1** Used or copied for use in or with the computers for which it was acquired, including use at any FWHA location to which such computer may be transferred;

13.36.7.1.2 Used or copied for use in or with backup computer if any computer for which it was acquired is inoperative;

13.36.7.1.3 Reproduced for safekeeping (archives) or backup purposes;

13.36.7.1.4 Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in a resulting contract; and

13.36.7.1.5 Used or copied for use in or transferred to a replacement computer.

13.37 **Additional Information:** Each provision of law and each clause, which is required by law to be inserted in this RFP or any contract, shall be deemed to have been inserted herein, and this RFP and any resulting contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party. The fore-mentioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessary applicable nor is an omission of such statute, regulation or executive order intended to indicate that it is not applicable.

13.38 **Conflicting Conditions:** In the even there is a conflict between the documents comprising this RFP and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached HUD forms and the term/conditions in the body of any resulting contract; (2) the RFP; and (3) Contractor's Response. In the event that a conflict exists between any state statute or federal law the most restrictive terms shall apply.

13.39 **Interpretations:** No official oral interpretation can be made to any proposer as to the meaning of any instruction, condition, specifications, drawing (if any), or any other document issued pertaining to this RFP. Every request for an official interpretation shall be made by the prospective proposer, in writing at least five (5) days prior to the submission deadline. Official interpretations will be issued in the form of addenda, which will be posted on www.fwha.org; but it shall be the prospective proposer's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the RFP documents and the proposed contract with the successful proposer and all proposers shall be bound by such addenda, whether or not received by the prospective or successful proposer(s).

13.40 **Contract Form:** FWHA will not execute a contract on the successful proposer's form. Contracts will only be executed on FWHA's form. By submitting a proposal, the successful proposer agrees to this condition. However, FWHA will consider any contract clauses that the proposer wishes to include therein, but the failure of FWHA

to include such clauses does not give the successful proposer the right to refuse to execute FWHA's contract form. It is the responsibility of each prospective proposer to notify FWHA, in writing, with the proposal submittal of any contract clauses that he/she is not willing to include in the final executed contract. FWHA will consider such clauses and determine whether or not to amend the Contract.

- 13.41 **Liquidated Damages:** For each day that performance under a resulting contract from this RFP is delayed beyond the time specified for completion, the successful proposer shall be liable for liquidated damages in the amount of \$50.00 per day. However, the timeframe for performance may be adjusted at FWHA's discretion in writing and received by the successful proposer prior to default under any resulting contract.
- 13.41.1 **Force Majeure:** Neither FWHA nor Contractor shall be held responsible for delays nor default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively, FWHA or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- 13.42 **Immigration Reform:** By submitting a proposal Contractor certifies compliance with the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986 who will perform any labor or services under any resulting contract.
- 13.43 **Most Favored Customer:** The Contractor agrees that if during the term of any resulting contract, the Contractor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the resulting Contract will at FWHA's option, be amended to accord equivalent advantage to FWHA.
- 13.44 **Lapse in Insurance Coverage:** In the event Contractor fails to maintain insurance as required by a resulting contract, the Contractor shall immediately cure such lapse in insurance coverage at the Contractor's expense, and pay FWHA in full for all costs and expenses incurred by FWHA under this Contract as a result of Contractor's failure to maintain insurance as required, including costs and reasonable attorney's fees relating to FWHA's attempts to cure such lapse in insurance coverage. Such costs and attorney fees, not to exceed fifteen hundred and 00/100 dollars (\$1,500.00), shall be automatically deducted from monies or payments owed to Contractors. Moreover, FWHA shall retain from monies or payments owed to Contractor by FWHA five percent (5%) of the value of the Contract and place this retainage into an account to cover FWHA's potential exposure to liability during the period of such lapse. This retainage shall be held by FWHA until six (6) months after the term of the resulting contract has ended or has otherwise been terminated, cancelled or expired and shall be released if no claims are received or lawsuits filed against FWHA for any matter that should have been covered by the required insurance.

14. **FEES:** All fees are all-inclusive of all related costs that a proposer will incur to provide the noted goods or services in compliance with this solicitation, including, but not limited to: employee wages and benefits, clerical support, travel and lodging, overhead, profit, licensing, insurance, materials, supplies, tools, equipment, long distance telephone calls, document copying and motor vehicle fuel, all costs shall be fully burdened.
15. **BID COSTS:** FWHA shall not compensate any bidder for any costs that may be incurred in responding to this solicitation.
16. **ASSIGNMENT OF PERSONNEL:** FWHA retains the right to demand and receive a change in personnel assigned by the Contractor to provide services to FWHA if FWHA believes that such change is in its best interest.
17. **SECTION 3:** Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135) 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. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3.
18. **GENERAL CONDITIONS:**
 - 18.1 Acceptance by FWHA is required prior to payment. Acceptance will be based on adherence to the specifications, best industry practice and inspection by FWHA personnel.
 - 18.2 Contractor shall supply all material, labor and equipment to complete the requirement of this solicitation unless otherwise specified in this solicitation.