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**1.0 GENERAL CONDITIONS:**

- 1.1 Applicability:** If referred to within the text of such, these ITPC shall be applicable to all Requests for Qualification (RFQ) solicitations that the Housing Authority of the City of Bremerton (BHA) conducts and shall be applicable to any contract that BHA awards to or signs with any firm, agency or individual pursuant to that RFQ. A copy of these ITPC shall be made available to any actual or prospective proposer, or contractor who does business with or intends to do business with BHA.
- 1.1.1** Unless otherwise specified within the RFQ or contract documents, in the event that any provision in any document listed herein conflicts with any provision within these ITPC, the provision in RFQ or contract document shall govern.
- 1.2 Definitions:** (pertaining to all RFQ documents issued by BHA, including the attachments and the ensuing contract).
- 1.2.1 Contract Officer (CO):** When named within an RFQ document shall refer to either the Executive Director the person he/she has delegated such responsibilities to.
- 1.2.2 Contract:** Refers to the fully executed written agreement that ensues from the RFQ. Whereas all RFQ documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an RFQ document, such is referring to both the RFQ documents and the ensuing contract document.
- 1.2.3 Consultant:** And the term "successful proposer" may be used interchangeably.
- 1.2.4 Days:** Unless otherwise directed refers to calendar days.
- 1.2.5 ED:** BHA's Executive Director.
- 1.2.6 BHA:** The Housing Authority of the City of Bremerton.

## Instructions to Proposers & Contractors (ITPC)

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- 1.2.7 **Herein:** Refers to all documents issued pursuant to the noted RFQ, including the RFP documents, attachments and addenda.
- 1.2.8 **HUD:** The United States Department of Housing and Urban Development.
- 1.2.9 **HUD Handbook:** Refers to the HUD Procurement Handbook 7460.8 REV 2.
- 1.2.10 **Offer:** The proposal and/or submittal referred to within the following Section 1.2.13 that the proposer delivers to BHA in response to the RFQ.
- 1.2.11 **Offeror/Offerors:** The proposer or proposers.
- 1.2.12 **Parties:** When "the parties," "both parties" or "either party" is stated within the RFQ documents or the contract, such refers to BHA and the successful proposer(s).
- 1.2.13 **Proposal and/or Submittal:** The "hard copy" document that the proposer is required to, as detailed within the RFQ document, deliver to BHA.
- 1.2.14 **Protestor:** A prospective proposer or proposer who feels that he/she has been treated inequitably by BHA and wishes BHA to correct the inequitable condition or situation. To be eligible to file a protest with BHA pertaining to an RFQ or contract, the protestor must have been involved in the RFQ process in some manner as a prospective proposer (i.e. registered and received the RFQ documents).
- 1.2.15 **Proposer and/or Prospective Proposer:** A prospective proposer is a firm or individual who has been notified of the RFQ solicitation and/or who has requested and/or received the RFQ documents and is considering responding with a proposal; a proposer is a firm or individual who has submitted a proposal in response to the RFQ. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFQ - meaning, certain notices (such as the Notice of Results of Evaluation) are only delivered to proposers and not to prospective proposers.
- 1.2.16 **Request for Qualifications (RFQ):** The competitive proposal process allowed by HUD, especially as defined within the **HUD Handbook, Chapter 7**.
- 1.2.17 **RFQ Document(s):** Whether stated in the singular or the plural this refers to the body of documents, including attachments and other information posted by BHA.

## 2.0 CONDITIONS TO PROPOSE:

**2.1 Pre-Qualification of Proposers:** Prospective proposers will not be required to pre-qualify in order to submit a proposal. However, all proposers will be required to submit adequate information showing that the proposer is qualified to perform the required work (i.e. Profile of Firm Form and required resumes).

### 2.2 RFQ Forms, Documents, Specifications and Drawings:

- 2.2.1 It shall be each prospective proposer's responsibility to, prior to submitting a proposal in response to the RFQ, examine carefully and, as may be required, properly complete all documents issued pursuant to this RFQ.
- 2.2.2 BHA shall reserve the right to, prior to award, revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFQ documents issued, within any attachment or drawing, or within any addenda issued; such notice shall be delivered in writing to each prospective

and/or actual proposer. Such changes that are issued before the deadline for receipt of proposals shall be binding upon all prospective proposers. Such changes that are issued after the receipt of proposals, but prior to award shall be binding upon all parties that have submitted proposals; however, such parties shall be allowed to reject such changes by, within five (5) days of receipt of such written notice, withdrawing his/her proposal. Such withdrawal must be delivered, in writing, to the CO within the five (5) day deadline period.

**2.3 Proposal Preparation, Submission and Receipt by BHA:**

- 2.3.1 Required Forms:** All required forms furnished by BHA as a part of the RFQ document issued shall, as instructed, be fully completed and submitted by the proposer. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer.
- 2.3.2 Manner of Submission:** The proposal shall be submitted in the manner detailed within the RFQ document. Failure to submit the proposal in the manner specified may, at the discretion of the CO, eliminate that proposer from consideration for award.
- 2.3.3 Time for Receiving Proposals:** Proposals received prior to the time set as the deadline for the receipt by BHA shall be securely kept, unopened, by BHA. No proposal received after the designated deadline shall be considered, except as detailed within **Section 6 of Form HUD-5369-B (8/93), Late Submissions, Modifications and Withdrawal of Offers.**

  - 2.3.3.1** Proposers are cautioned that any proposal that may be time-stamped as being received by BHA after the exact time set as the deadline for the receiving of proposals shall be returned unopened to the proposer. Any such proposals inadvertently opened shall not be considered, but shall be ruled to be invalid. No responsibility will attach to BHA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and identified.
- 2.3.4 No Public Opening of Proposals:** Pursuant to the competitive proposals process, proposals are not publicly opened, but are held secure until the submittal deadline has passed. The proposals are then opened in private by the CO (or his/her designee) and are, pursuant to the evaluation plan, examined for minimal responsiveness. Persons other than BHA staff or the evaluation selection committee members are not allowed to be present during the opening, nor may they at any time inspect the proposals until the contract has been awarded.
- 2.3.5 Withdrawal of Proposals:** Proposals may be withdrawn as detailed within **Section 6(h) of Form HUD-5369-B (8/93), Late Submissions, Modifications and Withdrawal of Offers.** 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.
- 2.3.6 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 RFQ. Every request for an official interpretation shall be made by the prospective proposer, in writing, pursuant to the schedule set within the RFQ document issued and as directed by BHA. All questions and answers will be posted for all to view. Official interpretations will be issued in the form of addenda, which will be delivered to each proposer; 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 RFQ 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).

**2.4 Exceptions to Specifications:**

**2.4.1** A proposer may take exception to any of the proposal documents or any part of the information contained therein, by submitting, in writing to BHA, at least three (3) days prior to the proposal deadline, a complete and specific explanation as to what he/she is taking exception to. Proposed alternate documents or information must also be included. A response by BHA will be issued in writing within one (1) day of receipt of such exception request. BHA reserves the right to agree with the prospective proposer and issue a revision to the applicable RFQ requirements, or may reject the prospective proposer's request.

**2.4.2** When taking exception, prospective proposers must propose services that meet the requirements of the RFQ documents. All verbal instructions issued by BHA representatives not already listed within the RFQ documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.

**3.0 PROPOSAL EVALUATION:**

**3.1 Proposal Opening Results:** It is understood by all proposers/prospective proposers that the proposals received are not publicly opened and the results will not be a matter of public record until BHA has concluded all evaluations, chosen a final top-rated proposer, completed the award, and is ready to issue such results.

**3.1.1** All proposal documents submitted by the proposers are not necessarily a matter of public record and as a matter of normal course, the proposals submitted by each proposer will not, at any time, be viewed by any interested parties except as required by Washington State's Public Record Act or approved by BHA's Legal Counsel. BHA shall, however, upon request, verify that the proposal documents submitted are/were complete and correct.

**3.2 Award of Proposal(s):** The successful proposer shall be determined by the top-rated responsive and responsible proposer as determined by the evaluation process detailed within the RFQ document issued, provided his/her proposal is reasonable, he/she is able to deliver the specified items in a timely manner and it is, in BHA's opinion, in the best interests of BHA to accept the proposal. All proposers will be notified of the results of the evaluation at the earliest practicable date.

**3.3 Rejection of Proposals:**

**3.3.1** BHA reserves the right to, at any time during the proposal process, reject any or all proposals received. In the case of rejection of all proposals, BHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of BHA, the best interest of BHA will be promoted.

**3.3.2** Prospective proposers acknowledge that by downloading and receiving the RFQ documents and/or by submitting a proposal that the submission of a proposal to BHA is not a right by which to be awarded that proposal, but merely an offer by the prospective proposer to perform the requirements of the RFQ documents in the event BHA decides to consider an award to that proposer.

**3.4 Cancellation of Award:** BHA 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.

**3.5 Mistake in Proposal Submitted:**

**3.5.1** A request for withdrawal of a proposal due to a purported error need not be considered by BHA unless the same is 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 BHA, 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 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 BHA retains the right to accept or reject any proposed withdrawal for a mistake.

**3.6 Irregular Proposal Submitted:** A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at BHA's discretion, be cause for rejection:

**3.6.1** If the forms furnished by BHA are not used or are altered.

**3.6.2** If all required attachments do not accompany the proposal submitted or if attachments are not completed as required.

**3.6.3** 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.

**3.6.4** 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.

**3.7 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:

**3.7.1** Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as bidders or proposers for any future work of BHA until such participant has 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.

**3.7.2** More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s).

**3.7.3** Lack of competency, lack of experience and/or lack of adequate machinery, plant, and/or other resources.

**3.7.4** Unsatisfactory performance record as shown by past work for BHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.

**3.7.5** Incomplete work, which in the judgment of BHA, might hinder or prevent prompt completion of additional work, if awarded.

**3.7.6** Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of submittal.

**3.7.7** Failure to comply with any qualification requirement of BHA.

**3.7.8** Failure to list, if required, all subcontractors (if subcontractors are allowed by BHA) who will be employed by the successful proposer(s) to complete the work of the proposed contract.

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**3.7.9** As required by the RFQ documents, failure of the successful proposer to be properly licensed and/or to be insured by a general liability and/or worker's compensation policy.

**3.7.10** Any reason to be determined, in good faith, to be in the best interests of BHA.

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

### **4.0 Right to Protest:**

**4.1 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. An alleged aggrieved protestor (AAP) claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that AAP.

**4.2** To be eligible to file a protest with BHA pertaining to an RFQ or contract, the AAP must have been involved in the RFQ process in some manner as a prospective proposer (i.e. registered and received the RFQ documents) when the alleged situation occurred. BHA has no obligation to consider a protest filed by any party that does not meet these criteria

**4.3 Administrative Powers:** It is totally within the administrative powers of the ED to grant or deny any requests for administrative appeal. If, in the opinion of the ED, the AAP merits an administrative review, the ED shall direct that AAP to submit additional data.

**4.4 Procedure to Protest: As per 24 CFR 85.36 (11-12),** recipients of federal funding shall be responsible for the settlement of all contractual and administrative issues arising out of procurements and have protest procedures to handle and resolve disputes relating to procurements. A protestor must exhaust all administrative remedies with BHA before pursuing a protest with the federal agency. Failure to comply in the manner prescribed and with the procedures detailed below shall automatically relieve BHA from accepting or considering that protest.

**4.4.1** The AAP must file, in writing, to the CO the exact reason for the protest, attaching any supportive data. The AAP must state within the written protest document specifically (not by inference) what action by BHA or condition is being protested as inequitable, making where appropriate, specific reference to the RFQ documents issued. The protest document must also state the corrective action requested. Failure by the AAP to fully submit such information shall relieve BHA from any responsibility to take any corrective action.

**4.4.2** The written instrument containing the reason for the protest must be received by the CO within ten (10) days after the occurrence of the following:

**4.4.2.1** The deadline for receiving proposals;

**4.4.2.2** Receipt of notification of the results of the evaluation or the award;  
or

**4.4.2.3** The AAP knows or should have known the facts.

**4.4.3** In any case, protests shall be filed no more than ten (10) days after any of the above (unless the occurrence being protested occurred in its entirety after the proposal deadline). Protests received after these dates shall not be considered.

**4.4.4** The CO shall review the written protest and supportive data, if any. He/she shall, within ten (10) days after receipt of the written protest, issue a written

opinion and decision. This document shall state the reasons for the action taken as well as inform the AAP of the right of further administrative review. A copy of this written opinion and decision shall be forwarded to the ED.

**4.4.5 Administrative Appeal:** If the AAP does not agree with the written opinion and decision issued by the CO, the AAP may, after receipt of the written opinion and decision issued by the CO, request an administrative appeal hearing be granted. The following procedures must be complied with in the manner prescribed; failure by the AAP to comply shall automatically relieve BHA from accepting or acting on that request for administrative hearing:

**4.4.5.1** The AAP must file, in writing, his/her request for an administrative hearing, to the ED. This request must be filed within ten (10) calendar days after the receipt of the CO's written opinion and decision.

**4.4.5.2** The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.

**4.4.5.3** It shall be within the administrative powers of the ED to, after review of the request submitted, grant or deny any request for administrative appeal.

**4.4.5.4** If the ED, after complete review of the AAP's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the AAP. A decision rendered under this paragraph shall be made within ten (10) days after the receipt of the AAP's request for an administrative hearing. This decision shall be final without further administrative recourse.

**4.4.5.5** If the ED, after review of the AAP's written request, decides that the request merits further consideration, he/she shall forward the protestant's written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to BHA's Legal Counsel for consideration. BHA's Legal Counsel shall issue to the AAP a decision, in writing, within ten (10) days of his/her receipt of such documents.

**4.4.5.6** Such written decision delivered to the AAP shall exhaust the BHA internal protest and administrative appeal process available to the AAP.