REQUEST FOR PROPOSAL
BID #FY24-08
Fuel Services

DATE: Monday, March 18, 2024

The Houston Food Bank
535 Portwall St
Houston, TX, 77029
Phone (713) 547-8658
Website http://www.houstonfoodbank.org

USDA Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

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To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-30 27) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture
    Office of the Assistant Secretary for Civil Rights
    1400 Independence Avenue, SW
    Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.
The Houston Food Bank (HFB) is securing bids for Fuel Services with a contract term of one (1) year with option to renew for up to two (2) additional years. All materials are to be delivered to Houston Food Bank located at: 535 Portwall St., Houston TX 77029.

GENERAL CONDITIONS FOR BIDDERS:

Submission Guidelines
The Houston Food Bank is a tax exempt 501(c)(3) non-profit, our Tax Exemption Certificate shall be provided to the awarded bidder.

Bidding begins on Monday, March 18, 2024 and ends at Monday, April 1, 2024 at 5:00 PM on at the Houston Food Bank.

Bids shall be executed and submitted via e-mail. Please submit Afnan Rahim arahim@houstonfoodbank.org and hfbprocurement@houstonfoodbank.org

Please include in the Email Subject Line BID #FY24-08 Fuel Services. Bids will be opened at 10:00 AM, April 2, 2024 via Zoom. You are invited, but not required to be present.

Should you have any questions concerning this request for proposals please let us know via email at arahim@houstonfoodbank.org and Hfbprocurement@houstonfoodbank.org

Sincerely,

Sarah McIntire
Director of Acquisition and Procurement
Houston Food Bank
This document contains a Request for Proposals for Fuel Services. The Houston Food Bank operates TEFAP, CSFP, SFSP, and CACFP established by the United States Department of Agriculture and sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance, this document shall constitute the award between the successful bidder and the Institution. (Accepting a bid does not constitute acceptance of the contract.)

Soliciting Institution:
Houston Food Bank
535 Portwall St.
Houston, TX 77029
(713) 547-8658

Bid number: BID #FY24-08

Bid Issue Date: Monday, March 18, 2024
Bid Due Date: Monday, April 1, 2024
Bid Receipt Confirmation Date: April 2, 2024
Time: 10:00 AM

Join Zoom Meeting
https://us04web.zoom.us/j/71743439915?pwd=xatYuKCqfhSPuVdL87c092mlpahPtN.1
Meeting ID: 717 4343 9915
Passcode: 9qyeN2

Contract Commencement Date: Estimated April 2024 or date of agreement approval by the Houston Food Bank
Contract Expiration Date: Estimated 1 year with options to renew for 2 additional years

Prompt Payment Discount: ____ % for payment within ___ days (completed by bidder)

Total Estimated Amount of Bid: __________________________ (completed by bidder - in lieu of completing, bidders may supply additional bid amount detail on attachment)

By submission of this bid, the bidder certifies that, in the event he receives an award under this solicitation, he shall operate in accordance with all applicable, current program regulations. This agreement shall be in effect for 1 of year with the option to renew for 2 additional years.

Name of Bidder: __________________________
Name of Authorized Representative: __________________________

Print or Type Name of Company
Street Address:

Print or Type Name of Representative
By: __________________________
Signature of Representative (in blue ink)
Houston Food Bank is requesting fuel services, from a vendor that can provide all that is listed within the scope. HFB is looking for a contract of 1 year, with the option to renew for up to, 2 additional years.
Section 2

Certificate of Independent
Price Determination

(a) By submission of this bid, the bidder certifies, and in the case of a joint
bid, each party thereto certifies, as to its own organizations, that in
connection with this procurement:

1. The prices in this bid have been arrived at independently, without
consultation, communication or agreement, for the purpose of
restricting competition, as to any matter relating to such prices with
any other bidder or with any competitor;

2. Unless otherwise required by law, the prices which have been
quoted in this bid have not been knowingly disclosed by the bidder
and will not knowingly be disclosed by the bidder prior to bid
opening, directly or indirectly to any other bidder or to any
competitor; and

3. No attempt has been made or will be made by the bidder to induce
any person or firm to submit or not to submit, a bid for the purpose of
restricting competition.

(b) Each person signing this bid certifies that:

☐ The person in the bidder's organization is responsible within that
organization for the decision as to the prices being offered herein and
that he has not participated, will not participate, in any action contrary to
(a)(1) through (a)(3) above; or

☐ The person in the bidder's organization is not responsible within that
organization for the decision as to the prices being offered herein but
that he has been authorized in writing to act as agent for the persons
responsible for such decision in certifying that such persons have not
participated and will not participate, in any action contrary to (a)(1)
through (a)(3) above, and as their agent does hereby so certify; and he
has not participated, and will not participate, in any action contrary to
(a)(1) through (a)(3) above.

Signature of bidder’s authorized representative

Title _____________________________ Date ________________

In accepting this bid, the Institution certifies that the Institution’s officers,
employees or agents have not taken any action which may have jeopardized the
independence of the bid referred to above. (Accepting a bid does not constitute
acceptance of the contract.)

Signature of Authorized Institution Representative

Note: Institution and Bidder shall execute this Certificate of Independent Price
Determination.
Section 3
Instructions to Bidders

1. Definitions

As used herein:

a) The term “bid” means an offer to perform the work described in this Request for proposals at the fixed unit price specified in accordance with the terms and conditions of the solicitation.

b) The term “bidder” refers to a company submitting a bid in response to this Request for proposals.

c) The term “contractor” means a successful bidder who is awarded a contract by an Institution under The Emergency Food Assistance Program (TEFAP), Commodity Supplemental Food Program (CSFP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP) under the U. S. Department of Agriculture.

d) The term “Request for proposals”, hereafter referred to as RFP, means the document soliciting bids through the formal advertising method of competitive sealed bid procurement.

e) The term “Institution” means the Houston Food Bank which operates TEFAP, CSFP, CACFP, and SFSP Program which is issuing this RFP.

f) The Institution’s contact is Sarah McIntire, Director of Acquisition and Procurement or Afnan Rahim, Procurement Analyst–HFBprocurement@houstonfoodbank.org.

g) The term “responsive” means the bidder conforms to all material terms and conditions of the RFP.

h) The term “responsible” means the bidder is capable of successfully performing under the terms and conditions of the contract.

Other terms shall have the meanings ascribed to them in TEFAP, CSFP, CACFP, and SFSP regulations.

2. Submission of Bids

a) Bidders are expected to examine carefully the specifications, schedules, attachments, terms and conditions of this RFP. Failure to do so shall be at the bidder’s risk.

b) Bids shall be executed and submitted by email.

c) The copy marked “original” shall be governing should there be a variance between that copy of the bid and other copies submitted by the bidder. No
changes in the specifications or general conditions are allowed. Erasures on this bid shall be initialed by the bidder prior to submission.

i) If accepted, this RFP will be signed by an authorized representative of the Institution and a fully executed copy will be forwarded to the successful bidder as the notice of award.

d) The successful bidder shall provide a contract, using the specifications outlined in this RFP to the Houston Food Bank by to the attention of Afnan Rahim, arahim@houstonfoodbank.org and hfbprocurement@houstonfoodbank.org.

e) An interested party may protest the solicitation, the cancellation of the solicitation, or the award or proposed award of a contract in writing by contacting HFB Procurement via email at HFBProcurement@houstonfoodbank.org.

Failure to comply with any of the above shall be reason for rejection of the bid.

3. Explanation to Bidders

Any explanation/questions desired by a bidder regarding the meaning or interpretation of the RFP specifications, etc., must be requested by email to Afnan Rahim, arahim@houstonfoodbank.org and HFBProcurement@houstonfoodbank.org by 5:00 PM on Wednesday, March 27, 2024 to allow sufficient time allowed for a reply to reach all bidders before bid opening.

Oral explanations or instructions given before the award of the contract shall not be binding. Any information given to a prospective bidder concerning an RFP shall be furnished to all prospective bidders as an amendment to the RFP if such information is necessary to bidders in submitting bids on the RFP or if the lack of such information would be prejudicial to uninformed bidders.

4. Acknowledgment of Amendments to Submitted Bids

Receipt of an amendment to a bid by a bidder must be acknowledged by signing and returning the amendment. Such acknowledgment must be received prior to the hour and date specified for bid opening.

5. Discounts

Although a blank is provided for a time discount, prompt payment discounts offered for payment in less than twenty calendar days will not be considered in evaluating bids for award. However, offered discounts of less than twenty days will be taken if payment is made within the discount period even though not considered in the evaluation of bids. (NOTE: Payment discounts may only be used to determine the low bid when prior experience of the Institution indicates that such discounts are generally taken).

6. Bidders Having Interest in More than One Bid
If more than one bid is submitted by any one person, by or in the name of a clerk, partner, or other person, all such bids shall be rejected.

7. Time for Receiving Bids

Sealed bids shall be deposited at the address specified on the RFP of the Institution no later than the exact time and date indicated on the face of this RFP. Bids received prior to the time of opening will be securely kept, unopened.

8. Error in Bids

Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements and specifications before submitting bids; failure to do so shall be at the bidder’s own risk and he cannot secure relief on the plea of error.

9. Award of Contract

a) The contract will be awarded to the lowest responsive and responsible bidder meeting the specific requirements.

b) The Institution reserves the right to reject any or all bids when there are sound documented business reasons in the best interest of the Program and to waive informalities and minor irregularities in bids received.

c) The Institution reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete on time contracts of a similar nature, or the bid of a bidder who investigation shows is not in a position to perform the contract. Other factors that may be considered include, but are not limited to the bidder’s integrity, compliance with public policy, and financial and technical resources.

10. Late Bids, Modifications of Bids or Withdrawals of Bids

a) Any bid received after the exact time specified for receipt will not be considered.

b) A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

c) The only acceptable evidence to establish the date of emailing of a late bid, modifications or withdrawal is providing evidence of the sent time of the email in the form of a screenshot displaying the time and date with the subject line listed above.

11. Confidentiality

a) Bidder covenants that all data, documents, discussion, or other information developed or received by bidder or provided for performance of this Agreement...
are deemed confidential and shall not be disclosed by Bidder without written authorization by HFB.

b) HFB shall grant such authorization if disclosure is required by law. Bidder's covenant under this Section shall survive the termination of this Agreement.

12. Addition and Removal of Locations

a) HFB is required periodically to increase or decrease its fleet size and locations due to changes in demand.

b) HFB needs the flexibility to communicate these changes to the contractor and easily update the contract under the existing contract terms and without incurring excessive additional cost for the changes.

13. Bidder Selection

HFB intends to select the bid with the best value based on the scoring matrix, but it reserves the right to choose multiple bidders in order to meet the needs of HFB.
**Section 4 Scope**

Fueling locations and fleet size  
HFB East 535 Portwall Street Houston Tx 77029 1 fire pump  
Aleen (Teachers Aid building) 8353 East Freeway Houston Tx 77029 1 generator 1  
DEF fluid tank, and any operable HFB vehicles that are not out of service  
HFB North- 146 Knobcrest Drive Houston Tx 77060 any HFB parked vehicles

**Fleet:**

- 52 Bobtails  
- 3 Yard Mules  
- 32 Tractors  
- 25 Mobile Trailers  
- 5 p/u Trucks  
- 51 Refer Trailers  
- 2 RMT Trailers

**Fuel Type and Quality:**

- Clear Diesel  
- Red Dyed Diesel  
- DEF Fluid

**Service Expectations:**

a) Contractor agrees to deliver fuel to 535 Portwall Street 77029, 8353 East Freeway 77029, 146 Knobcrest 77060.  
b) Contractor agrees to replenish generators at 535 Portwall, 8353 East Freeway and 146 Knobcrest bi-weekly or as needed.  
c) Delivery of fuel is required between 6:00 pm and 5 am Sunday-Friday  
The contractor shall provide metered delivery tickets or meter readings to certify that the actual gross volumes of bulk fuel delivered. These volumes shall not be temperature controlled.  
d) The contractor agrees to take efforts to provide the lowest reasonable cost by implementing shrink prevention efforts.  
e) Invoices will be paid in Net 30. Upon request, the contractor agrees to provide documentation to support invoicing and accounting services such as: purchase order match vs. delivery, receipts vs. bill of lading and in book vs. actual accounting.  
f) In the event the selected contractor sells the business or is bought out during the contract period, the Houston Food Bank reserves the right to terminate the contract and rebid.  
g) The contractor agrees to take reasonable steps to lower gas emissions.  
h) The contractor agrees to have a vendor-managed solution for each division of our units. Example- Keegan, core, and retail units. All units must be billed by program.  
i) The contractor will need to provide monthly metrics to HFB for fuel used at each location broken down by programs. (programs and unit will be given
to the contractor that wins the bid).

j) The selected Proposer will provide fleet fuel card services to enable HFB vehicles to purchase fuel at select retail fueling stations located throughout the City of Houston and surrounding areas. The Proposer will provide a secure platform for data management and reporting of transactions, and to centralize visibility, control and payment.

4. Reporting expectations

HFB routinely seeks to take advantage of new technology that can bring cost savings and increase real-time data visibility. HFB utilizes the Samsara Fleet Maintenance and Tracking System (Samsara) to manage the transportation fleet and improve operational efficiency. Where possible, HFB prefers contractor utilize technology that is compatible with Samsara for data sharing, and at a minimum, contractor shall furnish HFB records and reports indicating and showing all service and work performed by the Contractor, recorded and documented daily and supplied to HFB for entering into HFB Samsara Management system. Where data entry cannot be shared directly to Samsara, contractor shall work with HFB on formatting reports in an efficient manner to minimize manual entry by HFB. The contractor agrees to provide visibility to fuel usage and metrics, such as: total gallons used in a given time period, total fuel usage and fuel usage by vehicle type, total cost and average cost by vehicle type, etc. At a minimum, monthly and annual metrics are needed. The contractor agrees to provide visibility to fuel usage and metrics, such as: total gallons used in a given time period, total fuel usage and fuel usage by vehicle type, total cost and average cost by vehicle type, etc. At a minimum, monthly and annual metrics are needed.

5. Natural disaster expectations

In the event of a natural disaster, the contractor agrees to service the fleet and generators at HFB North, HFB East and Aleen location at a minimum of every 10 hours and provide bulk fuel for employees of the Houston Food Bank, if needed. Any additional charges for services related to assisting the Institution under these conditions shall be agreed to in advance and soon thereafter document through a Field Work Order/Change Order. The contractor may charge the Houston Food Bank for up to and no more than the average retail local market price for the date the order is placed.

6. Insurance

Workers’ Compensation and Employer’s Liability:

Workers Compensation Insurance, as required by statute. Employer’s Liability coverage is to be carried with minimum limits of $1,000,000 for each accident/$1,000,000 disease-policy limit/$1,000,000 disease-each employee.

General Liability Insurance:
Commercial General Liability is required with limits of not less than $1,000,000 for Bodily Injury & Property Damage Each Occurrence; $2,000,000 General Aggregate; $1,000,000 Products/Completed Operations Aggregate and $1,000,000 Personal/Advertising Injury.

The policy shall also cover liability arising from liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and Personal Injury (including, but not limited to, coverage for defamation, malicious prosecution and slander). Products/Completed Operations must be included and maintained for at least three (3) years beyond completion of the work required by contract in accordance with the terms thereof. ISO Contractual Liability Limitation Endorsement #CG2391093 shall not apply to the contract. This insurance shall be excess over any other insurance, whether primary, excess, contingent or on any other basis that is available to the Proposer or its subcontractor covering liability for damages because of Bodily Injury or Property Damage for which the Proposer has been included as an Additional Insured. Such policy must contain a “Severability of Interests” clause. Houston food bank and their respective officers, employees, directors, boards, commissions and agents, shall be included as Additional Insureds. The Additional Insured Endorsement(s) should also include Products/Completed Operations and “your work”. ISO endorsement CG20 37 07 04 or equivalent should be attached to policy. A copy of the actual Additional Insured Endorsement or policy wording is required.

Automobile Liability Insurance:

Business Automobile Liability covering owned, non-owned and hired auto is required with limits of not less than $1,000,000 Combined Single Limit for Bodily Injury and Property Damage; $5,000,000 if hazardous materials or waste are to be transported. If hazardous materials or waste are being transported, Motor Carrier Safety Act (MCS90) and CA9948 Endorsements are to be attached. Such a policy must contain a “Severability of Interests” clause. Houston food bank and their respective officers, employees, directors, boards, commissions and agents, shall be included as Additional Insureds. A certificate of insurance evidencing all required coverage shall be filed with HFB prior to the commencement of work. Renewal certificates and policies, as required, shall be forwarded to Houston Food Bank for as long as Proposer performs the work as specified in this contract. All certificates and policies shall contain a provision that coverage afforded will not be canceled or materially altered until at least thirty (30) days after prior written notice has been given to HFB.

It shall be the responsibility of the Proposer to ensure that all subcontractors carry insurance of not less than coverage and limits specified herein except to the extent that HFB’s Director of Transportation may agree to lower limits on a case-by-case basis depending on the nature of the subcontractor’s work. Proper evidence of this compliance must be forwarded to Houston Food Bank prior to the inception of any work by subcontractor. As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than $1,000,000 per accident. Such insurance shall cover liability arising out of “Any Auto”.

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Section 5 Submission Criteria

Provide the following information in the response lines below or attached to the submitted RFP. Other acceptable responses are “Please see attached on pg. XX of submitted proposal” to point HFB to the exact information or “Not applicable”, but please remember a response is required for each request below.

Submission Criteria – Provide the following information in the response lines below or attached to the submitted RFP.

A. Cost of fuel services

<table>
<thead>
<tr>
<th></th>
<th>Item</th>
<th>Rack city</th>
<th>OPIS Rack Price</th>
<th>Price per Gallon Markup</th>
<th>Per Gallon Price</th>
<th>Estimated Qty</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Clear Diesel</td>
<td>Houston</td>
<td></td>
<td></td>
<td></td>
<td>X 190,000*</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Red Dyed Diesel</td>
<td>Houston</td>
<td></td>
<td></td>
<td></td>
<td>X 125,000*</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>DEF Fluid</td>
<td>Houston</td>
<td></td>
<td></td>
<td></td>
<td>X 20,000*</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Unleaded Fuel</td>
<td>Houston</td>
<td></td>
<td></td>
<td></td>
<td>X 9,000*</td>
<td></td>
</tr>
</tbody>
</table>

Cost factors – Please provide transparency into contributions to the total price offered above:

<table>
<thead>
<tr>
<th></th>
<th>% of price attributed to freight and delivery</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>% of price attributed to taxes</td>
</tr>
<tr>
<td>3</td>
<td>% of price attributed to compliance fees</td>
</tr>
</tbody>
</table>

*The quantities estimated above are for a 1-year timeframe. The Houston Food Bank will pay the contractor based on the actual quantities delivered as part of the work and makes no guarantees as to the quantities that will be purchased under the contract.
B. Description of bidder – include locations of offices and persons responsible for services and point of contact for Houston Food Bank. Include fuel market perspective to provide an understanding of wholesale vs. retail pricing and crack spread.

C. Statement of bidder’s customer service qualifications – include days and hours of availability, service level agreement, invoicing and payment expectations, shrink prevention efforts, etc.

D. Description of the bidder’s reporting and metric capabilities.

E. Statement of the bidder’s commitment to supporting the Houston Food Bank in the event of a natural disaster.
F. Statement of the bidder’s qualifications and financial capability as they relate to the scope of services – copies of recent audit, a current financial statement or a copy of the contractor’s federal income tax return with all amendments preferred. References from a minimum of 3 sources preferred.

G. Additional information the bidder deems appropriate to assist in evaluating the proposal.
### Evaluation of Bidders

Each bidder will be evaluated on the following factors:

<table>
<thead>
<tr>
<th>Factor</th>
<th>Total Possible Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 copy of the bid submitted by email – original copy noted with signatures in blue ink</td>
<td>Required</td>
</tr>
<tr>
<td>Bidder representative signatures:</td>
<td>Required</td>
</tr>
<tr>
<td>• RFP Solicitation – pg. 3</td>
<td></td>
</tr>
<tr>
<td>• Certificate of Independent Price Determination – pg. 5</td>
<td></td>
</tr>
<tr>
<td>• Clean Air and Water Certification – pg. 19</td>
<td></td>
</tr>
<tr>
<td>• Form AD-1048 – pg. 20</td>
<td></td>
</tr>
<tr>
<td>• Certification Regarding Lobbying – pg. 23</td>
<td></td>
</tr>
<tr>
<td>A. OPIS Rack Price, Price Per Gallon Markup, and Total Price (highest points awarded to lowest dollar value)</td>
<td>51</td>
</tr>
<tr>
<td>B. Description of bidder</td>
<td>9</td>
</tr>
<tr>
<td>C. Statement of customer service qualifications</td>
<td>9</td>
</tr>
<tr>
<td>D. Description of bidder’s reporting and metrics capabilities</td>
<td>8</td>
</tr>
<tr>
<td>E. Statement of the bidder’s commitment to supporting the Houston Food Bank in the event of a natural disaster</td>
<td>10</td>
</tr>
<tr>
<td>F. Statement of the firms’ qualifications and financial capability - higher points given to complete financial, tax or audit records and references from 3 sources.</td>
<td>11</td>
</tr>
<tr>
<td>G. Additional relevant information</td>
<td>2</td>
</tr>
</tbody>
</table>

Max Possible Points 100
Section 6

General Conditions

1. **Length of Contract**
   This contract will be in effect 12 months beginning April 2024 or date of agreement approval by the Houston Food Bank and shall end April 2025 with the option to renew for two (2) additional years.

2. **Payment**
   Invoices should be e-mailed to: AP@houstonfoodbank.org

   It is the Houston Food Bank’s policy to pay in full in net 30 days.

3. **Termination Clause**

   The successful bidder’s contract must include the following termination provisions:

   a) **For cause** - by Institution or contractor with thirty (30) days written notification.

   b) **The Institution’s right to terminate** - If the contractor fails to comply with any of the requirements of the contract. The Institution shall notify the contractor of specific instances of noncompliance, in writing. In instances where the contractor has been notified of noncompliance with the terms of the contract and has not taken immediate corrective action, the Institution shall have the right, upon written notice, of immediate termination of the contract and the contractor shall be liable for any damages incurred by the Institution. The Institution shall negotiate a repurchase contract on a competitive basis to arrive at a fair and reasonable price.

   c) The Institution shall, by written notice to the contractor, terminate the right of the contractor to proceed under this contract if it is found by the Institution that gratuities in the form of entertainment, gifts, favors, anything of monetary value or otherwise were offered or given by the contractor or contractor’s employees or subcontractors to any officer, employee or agent of the Institution.

   d) In the event this contract is terminated as provided in paragraph (b) hereof, the Institution shall be entitled: (i) to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor;

   e) and (ii) as a penalty, in addition to any other damages in any amount which shall not be less than three, nor more than ten times the costs incurred by the contractor in providing any such gratuities to any such officer or employee.

   f) The rights and remedies of the Institutions provided in this clause, shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract.
Section 7
General Provisions

Equal Opportunity

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor [41 CFR ch. 60].)

During the performance of the contract, the contractor agrees as follows:

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

b) The contractor will, in all solicitation or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, disability or national origin.

c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f) In the event of the contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with Procedures
authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

g) The contractor will include the provisions of paragraphs a) through g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or Institution. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or Institution as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Clean Air and Water

(Applicable only if the contract exceeds $100,000 or the Contracting Officer has determined that the orders under an indefinite quantity contract in any one year will exceed $100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act [42 USC 7413(c)(1) or the Federal Water Pollution Control Act [33 USC 1319(c)] and is listed by EPA, or the contract is not otherwise exempt.)

a) The contractor agrees as follows:

i) To comply with all the requirements of Section 114 of the Clean Air Act, as amended [42 USC 7414] and Section 308 of the Federal Water Pollution Control Act [33 USC 1251, et seq.], respectively, relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued hereunder before the award of this contract.

ii) That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

iii) To use his best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.

iv) To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph (a)(4).

b) The terms used in this clause have the following meanings:
i) The term “Air Act” means the Clean Air Act, as amended [42 USC 7401, et seq.].

ii) The term “Water Act” means Federal Water Pollution Control Act, as amended [33 USC 1251 et seq.].

iii) The term “Clean Air Standards” means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Clean Air Act [42 USC 7410], an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act [42 USC 7411] or Section 111(d), respectively, of the Air Act [42 USC 7412], or an approved implementation procedure under Section 112(d) of the Air Act [42 USC 7412].

iv) The term “Clean Water Standards” means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act [33 USC 1342] or by local government to ensure compliance with pretreatment regulations, as required by Section 307 of the Water Act [33 USC 1317].

v) The term “compliance” means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

vi) The term “facility” means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by a contractor or subcontractor to be utilized in the performance of a contract or subcontracts. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.
Clean Air and Water Certification

The bidder certifies as follows:

a) Any facility to be utilized in the performance of this proposed contract has □, has not □ been listed on the Environmental Protection Agency List of Violating Facilities.

b) He will promptly notify the Contracting Officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, U. S. Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities.

c) He will include substantially this certification, including this paragraph c) in every nonexempt subcontract.

____________________________________________________________________

Signature of Authorized Representative, Bidder     Date

Energy Policy and Conservation Act (42 USC 6201, et seq.)

The contractor shall 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 (42 USC 6201, et seq.)

Contract Work Hours and Safety Standards Act-Overtime Compensation

The contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (the “Act”), 40 USC 3702, 3704, as supplemented by Department of Labor regulations, 29 CFR, Part 5. Under Section 103 of the Act, contractor shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in any workweek. Section 107 of the Act provides that 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.
This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 417, Section 417.332, Participants’ responsibilities.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

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

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

Organization Name
Name

PR/Award Number or Project

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)    Date

Form AD-1048 (1/92)
Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.

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

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

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

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

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

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

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
Section 9

PROCUREMENT
Certification Regarding Lobbying

Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts exceeding $100,000 in Federal funds.

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

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

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding $100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

_______________________________________
Name/Address of Organization

_______________________________________
Name/Title of Submitting Official

_______________________________________        ________________________
Signature             Date
## Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See next page for public burden disclosure.)

Approved by OMB

<table>
<thead>
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<tr>
<th>1. Type of Federal Action:</th>
<th>2. Status of Federal Action:</th>
<th>3. Report Type:</th>
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<tbody>
<tr>
<td>___ a. contract</td>
<td>___ a. bid/offer/application</td>
<td>___ a. initial offering</td>
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<tr>
<td>___ b. grant</td>
<td>___ b. initial award</td>
<td>___ b. material change</td>
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<tr>
<td>___ c. cooperative</td>
<td>___ c. post-award</td>
<td>For Material Change Only:</td>
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<tr>
<td>agreement</td>
<td></td>
<td>Year __________</td>
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<tr>
<td>___ d. loan</td>
<td></td>
<td>Quarter ________</td>
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<tr>
<td>___ e. loan guarantee</td>
<td></td>
<td>Date of last report______</td>
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<td>___ f. loan insurance</td>
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<tr>
<th>4. Name and Address of Reporting Entity:</th>
<th>5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name &amp; Address Of Prime:</th>
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<tbody>
<tr>
<td>☐ Prime</td>
<td>______________ Congressional District, if known:</td>
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<tr>
<td>☐ Sub-awardee, Tier ____ , if known</td>
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<tr>
<th>6. Federal Department/Agency:</th>
<th>7. Federal Program Name/Description:</th>
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<th>8. Federal Action Number, if known:</th>
<th>9. Award Amount, if known:</th>
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<tbody>
<tr>
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<td>$</td>
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| 10. a. Name and Address of Lobbying Entity  
(If individual, last name, first name, MI): | b. Individuals Performing Services  
(Incl. Address if different from No. 10a) (last name, first name, MI):  
(Attach continuation sheet(s) if necessary) |
|-------------------------------------------------|------------------------------------------------|------------------------------------------------|
| 11. Amount of Payment  
(check all that apply):  
$ ______________ | 13. Type of Payment  
(check all that apply):  
☐ a. retainer  
☐ b. one-time fee  
☐ c. commission  
☐ d. contingent fee  
☐ e. deferred  
☐ f. other; specify: __________________________ | 12. Form of Payment  
(check all that apply):  
☐ a. cash  
☐ b. in-kind; specify:  
nature  
________________________  
value  
________________________ |
| 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted for Payment Indicated in Item 11:  
(Attach continuation sheet(s) if necessary) |
| 15. Continuation Sheet(s) attached:  ☐ Yes  ☐ No |
| 16. Information requested through this form is authorized by article 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information | Signature:  
_____________________________________________  
Print Name:  
_____________________________________________  
Title:  
_____________________________________________  
Telephone No: ____________  Date: __________ |
| will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to civil penalty of not less than $10,000 and not more than $100,000 for each such failure. |

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