

## Request for Proposal

### RFP Cover Sheet Administrative Information

<b>Title of RFP:</b> Foreign Labor Housing Inspection		<b>RFP Number:</b> RFP0918005081	
<b>Agency:</b> Department of Administrative Services Central Procurement Bureau (DAS CPB) on behalf of Iowa Workforce development (IWD)			
Number of years of initial contract term: 1 Year	Number of possible annual extensions: 5	Available to Political Subdivisions?	Yes
State Issuing Officer: Steve Oberbroeckling Purchasing Agent III Phone: 515-725-2090 E-mail: <a href="mailto:steve.oberbroeckling@iowa.gov">steve.oberbroeckling@iowa.gov</a>		Mailing Address: Iowa Department of Administrative Services Hoover State Office Building, Level 3 1305 East Walnut Street Des Moines, IA 50319-0105	
<b>PROCUREMENT TIMETABLE—Event or Action:</b>		<b>Date/Time (Central Time):</b>	
State Posts Notice of RFP on TSB website		20 JULY 2018	
State Issues RFP		23 JULY 2018	
RFP written questions, requests for clarification, and suggested changes from Contractors due:		6 AUGUST 2018/1:00PM	
Agency's written response to questions, requests for clarification, and suggested changes due approximately:		10 AUGUST 2018	
Proposals Due Date:		23 AUGUST 2018/1:00PM	
<b>Relevant Websites:</b>		<b>Web-address:</b>	
Internet website where Addenda to this RFP will be posted:		<a href="http://bidopportunities.iowa.gov/">http://bidopportunities.iowa.gov/</a>	
Number of Copies of Proposals Required to be Submitted:		Technical Proposal : 1 Original, 2 Copies, and 1 Digital Cost Proposal: 1 Original, 2 Copies, and 1 Digital	

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### 1.1 Purpose

The purpose of this Request for Proposals (RFP) is to solicit proposals from Responsible Respondents to provide the goods and/or services identified on the RFP cover sheet and further described in this RFP to the Agency identified on the RFP cover sheet. The Agency intends to award a Contract(s) for the initial period identified on the RFP cover sheet, and the Agency, in its sole discretion, may extend the Contract(s) for up to the number of annual extensions identified on the RFP cover sheet.

### 1.2 Definitions

For the purposes of this RFP and the resulting contract, the following terms shall mean:

**“Agency”** means the agency identified on the RFP cover sheet that is issuing the RFP and any other agency that purchases from the Contract.

**“Contract”** means the contract(s) entered into with the successful Contractor(s) as described in Section 5.

**“Contractor”** means the awarded business/person to provide the contractual services agreed upon.

**“General Terms and Conditions”** shall mean the Service Contract attached as Attachment #7.

**“Materially Unbalanced Response”** means a response in which line item prices are structured so that it is possible that the Respondent who appears to be low will not end up having the lowest overall cost to the State, due to high prices on particular line items.

**“Mathematically Unbalanced Proposal”** occurs when a Respondent’s pricing on some items is significantly more heavily loaded than the pricing on other items. A mathematically unbalanced response may include pricing on some item(s) that is significantly lower than the Respondent’s actual costs on those item(s) (including reasonable proportionate share of the Respondent’s anticipated profit, overhead costs, and other indirect costs that the Respondent anticipates for the performance of the items in question) and significantly higher than the Respondent’s actual costs on other item(s). In multi-year contracts, a bid might also be mathematically unbalanced if the costs are front-end loaded. A mathematically unbalanced response is also a materially unbalanced response if there is reasonable doubt that awarding the contract to the low Respondent, who submitted a mathematically unbalanced response, would result in the lowest overall cost.

**“Proposal”** means the Respondent’s proposal submitted in response to the RFP.

**“Respondent”** means the company, organization or other business entity submitting a proposal in response to this RFP.

**“Responsive Proposal”** means a Proposal that complies with the material provisions of this RFP.

**“RFP”** means this Request for Proposals and any attachments, exhibits, schedules or addenda hereto.

**“State”** means the State of Iowa, the Agency identified on the Contract Declarations & Execution Page(s), and all state agencies, boards, and commissions, and any political subdivisions making purchases from the Contract as permitted by this RFP.

### 1.3 Overview of the RFP Process

This RFP is designed to provide Respondents with the information necessary for the preparation of competitive Proposals. The RFP process is for the Agency’s benefit and is intended to provide the Agency with competitive information to assist in the selection process. It is not intended to be comprehensive. Each Contractor is responsible for determining all factors necessary for submission of a comprehensive Proposal.

Respondents will be required to submit their Proposals in hardcopy and on digital media (i.e. CD, USB drive, etc.). It is the Agency's intention to evaluate Proposals from all Respondents that submit timely Responsive Proposals, and award the Contract(s) in accordance with Section 5, Evaluation and Selection.

#### **1.4 Background**

The foreign labor program is designed to bring foreign workers into Iowa to help farmers and farm labor contractors with agricultural work when recruitment of domestic workers is insufficient to meet employers' labor needs. Iowa Workforce Development (IWD), Iowa's State Workforce Agency (SWA), is responsible for ensuring that the housing provided to agricultural workers through the foreign labor program meets Occupational Safety and Health Administration (OSHA) standards found at Title 29, Part 1910.142 of the Code of Federal Regulations (CFR) or U.S. Department of Labor, Employment and Training Administration (ETA) standards found at 20 CFR 654, Subpart E. The approved housing is a requirement under the foreign labor program, in compliance with 20 CFR 655, Subpart B, and 29 CFR 501.

In 2017, IWD conducted 175 housing inspections. As a result of an increased labor need for foreign labor in Iowa, the number of required inspections is expected to increase. IWD is soliciting proposals from experienced parties to assist in meeting the agency's obligation to complete housing inspections in compliance with federal regulation.

**2.1 Issuing Officer**

The Issuing Officer identified in the RFP cover sheet is the sole point of contact regarding the RFP from the date of issuance until a Notice of Intent to Award the Contract is issued.

**2.2 Restriction on Communication**

From the issue date of this RFP until a Notice of Intent to Award the Contract is issued, Respondents may contact only the Issuing Officer. The Issuing Officer will respond only to written questions regarding the procurement process. Questions related to the interpretation of this RFP must be submitted as provided in Section 2. Oral questions related to the interpretation of this RFP will not be accepted. Respondents may be disqualified if they contact any State employee other than the Issuing Officer about the RFP except that Respondents may contact the State Targeted Small Business Office on issues related to the preference for Targeted Small Businesses.

**2.3 Downloading the RFP from the Internet**

The RFP and any addenda to the RFP will be posted at <http://bidopportunities.iowa.gov/>. The Respondent is advised to check the website periodically for addenda to this RFP, particularly if the Respondent downloaded the RFP from the Internet as the Respondent may not automatically receive addenda. It is the Respondent's sole responsibility to check daily for addenda to posted documents.

**2.4 Procurement Timetable**

The dates provided in the procurement timetable on the RFP cover sheet are provided for informational and planning purposes. The Agency reserves the right to change the dates. If the Agency changes any of the deadlines for Respondent submissions, the Agency will issue an addendum to the RFP.

**2.5 Questions, Requests for Clarification, and Suggested Changes**

Respondents are invited to submit written questions and requests for clarifications regarding the RFP. Respondents may also submit suggestions for changes to the specifications of this RFP. The questions, requests for clarifications, or suggestions must be in writing and received by the Issuing Officer before the date and time listed on the RFP cover sheet. Oral questions will not be permitted. If the questions, requests for clarifications, or suggestions pertain to a specific section of the RFP, Respondent shall reference the page and section number(s). The Agency will send written responses to questions, requests for clarifications, or suggestions received from Respondents. The Agency's written responses will become an addendum to the RFP. If the Agency decides to adopt a suggestion that modifies the RFP, the Agency will issue an addendum to the RFP.

The Agency assumes no responsibility for oral representations made by its officers or employees unless such representations are confirmed in writing and incorporated into the RFP through an addendum.

**2.6 Amendment to the RFP**

The Agency reserves the right to amend the RFP at any time using an addendum. The Respondent shall acknowledge receipt of all addenda in its Proposal. If the Agency issues an addendum after the due date for receipt of Proposals, the Agency may, in its sole discretion, allow Respondents to amend their Proposals in response to the addendum.

**2.7 Amendment and Withdrawal of Proposal**

The Respondent may amend or withdraw and resubmit its Proposal at any time before the Proposals are due. The amendment must be in writing, signed by the Respondent and received by the time set for the receipt of Proposals. Electronic mail and faxed amendments will not be accepted. Respondents must notify the Issuing Officer in writing prior to the due date for Proposals if they wish to completely withdraw their Proposals.

## **2.8 Submission of Proposals**

The Agency must receive the Proposal at the Issuing Officer's address identified on the RFP cover sheet before the "Proposals Due" date listed on the RFP cover sheet. **This is a mandatory specification and will not be waived by the Agency. Any Proposal received after this deadline will be rejected and returned unopened to the Respondent.** Respondents mailing Proposals must allow ample mail delivery time to ensure timely receipt of their Proposals. It is the Respondent's responsibility to ensure that the Proposal is received prior to the deadline. Postmarking by the due date will not substitute for actual receipt of the Proposal. Electronic mail and faxed Proposals will not be accepted.

Respondents must furnish all information necessary to enable the Agency to evaluate the Proposal. Oral information provided by the Respondent shall not be considered part of the Respondent's Proposal unless it is reduced to writing.

## **2.9 Proposal Opening**

The Agency will open Proposals after the deadline for submission of Proposals has passed. The Proposals will remain confidential until the Evaluation Committee has reviewed all of the Proposals submitted in response to this RFP and the Agency has issued a Notice of Intent to Award a Contract. See Iowa Code Section 72.3. However, the names of Respondents who submitted timely Proposals will be publicly available after the Proposal opening. The announcement of Respondents who timely submitted Proposals does not mean that an individual Proposal has been deemed technically compliant or accepted for evaluation.

## **2.10 Costs of Preparing the Proposal**

The costs of preparation and delivery of the Proposal are solely the responsibility of the Respondent.

## **2.11 No Commitment to Contract**

The Agency reserves the right to reject any or all Proposals received in response to this RFP at any time prior to the execution of the Contract. Issuance of this RFP in no way constitutes a commitment by the Agency to award a contract.

## **2.12 Rejection of Proposals**

The Agency may reject outright and not evaluate a Proposal for reasons including without limitation:

- 2.12.1** The Respondent fails to deliver the cost proposal in a separate envelope.
- 2.12.2** The Respondent acknowledges that a mandatory specification of the RFP cannot be met.
- 2.12.3** The Respondent's Proposal changes a material specification of the RFP or the Proposal is not compliant with the mandatory specification of the RFP.
- 2.12.4** The Respondent's Proposal limits the rights of the Agency.
- 2.12.5** The Respondent fails to include information necessary to substantiate that it will be able to meet a specification of the RFP as provided in Section 3, Exhibit 8 of the RFP.
- 2.12.6** The Respondent fails to timely respond to the Agency's request for information, documents, or references.
- 2.12.7** The Respondent fails to include proposal security, if required.
- 2.12.8** The Respondent fails to include any signature, certification, authorization, stipulation, disclosure or guarantee as provided in Section 3, Exhibit 8 of this RFP.

- 2.12.9** The Respondent presents the information requested by this RFP in a format inconsistent with the instructions of the RFP or otherwise fails to comply with the specifications of this RFP.
- 2.12.10** The Respondent initiates unauthorized contact regarding the RFP with state employees.
- 2.12.11** The Respondent provides misleading or inaccurate responses.
- 2.12.12** The Respondent's Proposal is materially unbalanced.
- 2.12.13** There is insufficient evidence (including evidence submitted by the Respondent and evidence obtained by the Agency from other sources) to satisfy the Agency that the Respondent is a Responsible Respondent.
- 2.12.14** The Respondent alters the language in Attachment 1, Certification Letter or Attachment 2, Authorization to Release Information letter.

### **2.13 Nonmaterial Variances**

The Agency reserves the right to waive or permit cure of nonmaterial variances in the Proposal if, in the judgment of the Agency, it is in the State's best interest to do so. Nonmaterial variances include but are not limited to: minor failures to comply that do not affect overall responsiveness, that are merely a matter of form or format, that do not change the relative standing or otherwise prejudice other Contractors, that do not change the meaning or scope of the RFP, or that do not reflect a material change in the specifications of the RFP. In the event the Agency waives or permits cure of nonmaterial variances, such waiver or cure will not modify the RFP specifications or excuse the Respondent from full compliance with RFP specifications or other Contract specifications if the Respondent is awarded the Contract. The determination of materiality is in the sole discretion of the Agency.

### **2.14 Reference Checks**

The Agency reserves the right to contact any reference to assist in the evaluation of the Proposal, to verify information contained in the Proposal and to discuss the Respondent's qualifications and the qualifications of any subcontractor identified in the Proposal.

### **2.15 Information from Other Sources**

The Agency reserves the right to obtain and consider information from other sources concerning a Respondent, such as the Respondent's capability and performance under other contracts, the qualifications of any subcontractor identified in the Proposal, the Respondent's financial stability, past or pending litigation, and other publicly available information.

### **2.16 Verification of Proposal Contents**

The content of a Proposal submitted by a Respondent is subject to verification. If the Agency determines in its sole discretion that the content is in any way misleading or inaccurate, the Agency may reject the Proposal.

### **2.17 Proposal Clarification Process**

The Agency reserves the right to contact a Respondent after the submission of Proposals for the purpose of clarifying a Proposal. This contact may include written questions, interviews, site visits, a review of past performance if the Respondent has provided goods and/or services to the State or any other political subdivision wherever located, or requests for corrective pages in the Respondent's Proposal. The Agency will not consider information received from or through Respondent if the information materially alters the content of the Proposal or the type of goods and/or services the Respondent is offering to the Agency. An individual authorized to legally bind the Respondent shall sign responses to any request for clarification. Responses shall be submitted to the Agency within the time specified in the Agency's request. Failure to comply with requests for additional information may result in rejection of the Proposal.

## 2.18 Disposition of Proposals

All Proposals become the property of the State and shall not be returned to the Respondent. Once the Agency issues a Notice of Intent to Award the Contract, the contents of all Proposals will be in the public domain and be available for inspection by interested parties, except for information for which Respondent properly requests confidential treatment according to exceptions provided in *Iowa Code Chapter 22* or other applicable law.

## 2.19 Public Records and Requests for Confidential Treatment

The Agency's release of public records is governed by Iowa Code chapter 22. Contractors are encouraged to familiarize themselves with Chapter 22 before submitting a Proposal. The Agency will copy and produce public records upon request as required to comply with Chapter 22 and will treat all information submitted by a Contractor as non-confidential records unless Contractor requests specific parts of the Proposal be treated as confidential at the time of the submission as set forth herein **AND the information is confidential under Iowa or other applicable law.**

### 2.19.1 Form 22 Request for Confidentiality

***FORM 22 MUST BE COMPLETED AND INCLUDED WITH CONTRACTOR'S PROPOSAL. COMPLETION AND SUBMITTAL OF FORM 22 IS REQUIRED WHETHER THE PROPOSAL DOES OR DOES NOT CONTAIN INFORMATION FOR WHICH CONFIDENTIAL TREATMENT WILL BE REQUESTED. FAILURE TO SUBMIT A COMPLETED FORM 22 WILL RESULT IN THE PROPOSAL CONSIDERED NON-RESPONSIVE AND NOT EVALUATED.***

### 2.19.2 Confidential Treatment Is Not Requested

A Contractor not requesting confidential treatment of information contained in its Proposal shall complete Section I of Form 22 and submit Form 22 with the Proposal.

### 2.19.3 Confidential Treatment of Information is Requested

A Contractor requesting confidential treatment of specific information shall: (1) fully complete Section II of Form 22, (2) conspicuously mark the outside of its Proposal as containing confidential information, (3) mark each page upon which the Contractor believes confidential information appears **and CLEARLY IDENTIFY EACH ITEM for which confidential treatment is requested; MARKING A PAGE IN THE PAGE MARGIN IS NOT SUFFICIENT IDENTIFICATION**, and (4) submit a "Public Copy" from which the confidential information has been excised.

Form 22 will not be considered fully complete unless, for each confidentiality request, the Contractor: (1) enumerates the specific grounds in Iowa Code chapter 22 or other applicable law that supports treatment of the material as confidential, (2) justifies why the material should be maintained in confidence, (3) explains why disclosure of the material would not be in the best interest of the public, and (4) sets forth the name, address, telephone, and e-mail for the person authorized by Contractor to respond to inquiries by the Agency concerning the confidential status of such material.

**The Public Copy from which confidential information has been excised is in addition to the number of copies requested in Section 3 of this RFP.** The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Proposal as possible.

**Failure to request information be treated as confidential as specified herein shall relieve Agency and State personnel from any responsibility for maintaining the information in confidence. Contractors may not request confidential treatment with respect to pricing information and transmittal letters. A contractor's request for confidentiality that does not comply with this section or a contractor's request for confidentiality on information or material that cannot be held in confidence as set forth herein are grounds for rejecting contractor's Proposal as non-responsive. Requests to maintain an entire Proposal as confidential will be rejected as non-responsive.**

If Agency receives a request for information that Contractor has marked as confidential and if a judicial or administrative proceeding is initiated to compel the release of such material, Contractor shall, at its sole expense, appear in such action and defend its request for confidentiality. If Contractor fails to do so, Agency may release the information or material with or without providing advance notice to Contractor and with or without affording Contractor the opportunity to obtain an order restraining its release from a court possessing competent jurisdiction. Additionally, if Contractor fails to comply with the request process set forth herein, if Contractor's request for confidentiality is unreasonable, or if Contractor rescinds its request for confidential treatment, Agency may release such information or material with or without providing advance notice to Contractor and with or without affording Contractor the opportunity to obtain an order restraining its release from a court possessing competent jurisdiction.

#### **2.20 Copyright Permission**

By submitting a Proposal, the Respondent agrees that the Agency may copy the Proposal for purposes of facilitating the evaluation of the Proposal or to respond to requests for public records. By submitting a Proposal, the Respondent consents to such copying and warrants that such copying will not violate the rights of any third party. The Agency shall have the right to use ideas or adaptations of ideas that are presented in Proposals.

#### **2.21 Release of Claims**

By submitting a Proposal, the Respondent agrees that it will not bring any claim or cause of action against the Agency based on any misunderstanding concerning the information provided in the RFP or concerning the Agency's failure, negligent or otherwise, to provide the Respondent with pertinent information in this RFP.

#### **2.22 Respondent Presentations**

Respondents may be required to make a presentation. The determination as to need for presentations, and the location, order, and schedule of the presentations is at the sole discretion of the Agency. The presentation may include slides, graphics and other media selected by the Respondent to illustrate the Respondent's Proposal. The presentation shall not materially change the information contained in the Proposal.

#### **2.23 Evaluation of Proposals Submitted**

Proposals that are timely submitted and are not rejected will be reviewed in accordance with Section 4 of the RFP. The Agency will not necessarily award a Contract resulting from this RFP to the Respondent offering the lowest cost. Instead, the Agency will award the Contract(s) to the Responsible Respondent(s) whose Responsive Proposal the agency believes will provide the best value to the Agency and the State.

#### **2.24 Award Notice and Acceptance Period**

Notice of Intent to Award the Contract(s) will be sent to all Respondents submitting a timely Proposal and may be posted at the website shown on the RFP cover sheet. Negotiation and execution of the Contract(s) shall be completed no later than thirty (30) days from the date of the Notice of Intent to Award or such other time as designated by Agency. If the successful Respondent fails to negotiate and deliver an executed Contract by that date, the Agency, in its sole discretion, may cancel the award and award the Contract to the remaining Respondent the Agency believes will provide the best value to the State.

#### **2.25 No Contract Rights until Execution**

No Contractor shall acquire any legal or equitable rights regarding the Contract unless and until the Contract has been fully executed by the successful Contractor and the Agency.

#### **2.26 Choice of Law and Forum**

This RFP and the Contract shall be governed by the laws of the State of Iowa. Changes in applicable laws and rules may affect the award process or the Contract. Respondents are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation or actions commenced in connection with this RFP shall be brought in the appropriate Iowa forum.

**2.27 Preference**

By virtue of statutory authority, a preference will be given to products and provisions grown and coal produced within the state of Iowa. Preference application: Tied responses to solicitations, regardless of the type of solicitation, are decided in favor of Iowa products and Iowa-based businesses per 11 IAC 117.5(1)-(2), 117.12(4).

**2.28 Restrictions on Gifts and Activities**

*Iowa Code Chapter 68B* restricts gifts which may be given or received by State employees and requires certain individuals to disclose information concerning their activities with State government. Respondents are responsible to determine the applicability of this Chapter 68B to their activities and to comply with its requirements. In addition, pursuant to *Iowa Code section 722.1*, it is a felony offense to bribe or attempt to bribe a public official.

**2.29 No Minimum Guaranteed**

The Agency does not guarantee any minimum level of purchases under the Contract.

**2.30 Appeals**

Appeals of the Notice of Intent to Award are governed by the Agency's vendor appeal process. Contractors may obtain information about the appeal process from the Issuing Officer and at Iowa Administrative Code chapters 11-7 and 11-105.

**3.1 Instructions**

These instructions describe and define the format and content of the Proposal. They are designed to facilitate a uniform review process. Failure to adhere to the Proposal format may result in the rejection of the Proposal.

**3.1.1** The Proposal shall be typewritten on 8.5" x 11" paper, include numbered pages, and sent in sealed envelope. The Proposal shall be divided into two parts: (1) the Technical Proposal and (2) the Cost Proposal. The Technical Proposal and the Cost Proposal shall be labeled as such and placed in separate sealed envelopes. The envelopes shall be labeled with the following information:

RFP Number: 0918005081  
RFP Title: Foreign Labor Housing Inspection  
Steve Oberbroeckling  
Iowa Department of Administrative Services  
Hoover State Office Building, Level 3  
1305 East Walnut Street  
Des Moines, IA 50319-0105

The Agency shall not be responsible for misdirected packages or premature opening of Proposals if a Proposal is not properly labeled.

**3.1.2** 1 Original, 1 Digital, & 2 Copies of the Technical Proposal shall be timely submitted to the Issuing Officer in a sealed envelope. 1 Original, 1 Digital, & 2 Copies of the Cost Proposal shall be submitted in a separate sealed envelope.

Technical Proposal Envelope Contents  
Original Technical Proposal and any copies Public Copy (if submitted)  
Technical Proposal on digital media Electronic Public Copy on same digital media (if submitted)

Cost Proposal Envelope Contents  
Original Cost Proposal and any copies  
Cost Proposal on digital media

**3.1.3** If the Respondent designates any information in its Proposal as confidential pursuant to Section 2, the Respondent must also submit one (1) copy of the Proposal from which confidential information has been excised as provided in Section 2 and which is marked "Public Copy".

**3.1.4** Proposals shall not contain promotional or display materials.

**3.1.5** Attachments shall be referenced in the Proposal.

**3.1.6** If a Respondent proposes more than one solution to the RFP specifications, each shall be labeled and submitted separately and each will be evaluated separately.

### **3.2 Technical Proposal**

The following documents and responses shall be included in the Technical Proposal in the order given below.

#### **Exhibit 1 – Transmittal Letter**

An individual authorized to legally bind the Respondent shall sign the transmittal letter. The letter shall include the Respondent's mailing address, electronic mail address, fax number, and telephone number. Any request for confidential treatment of information shall be included in the transmittal letter in accordance with the provisions of Section 2.19. The Respondent shall sign and submit with the Proposal the document included as Attachment #3 Form 22 – Request for Confidentiality.

#### **Exhibit 2 – Executive Summary**

The Respondent shall prepare an executive summary and overview of the goods and/or services it is offering, including all of the following information:

- Statements that demonstrate that the Respondent has read and understands the terms and conditions of the RFP including the contract provisions in Section 5, except as noted in Attachment #4 Exceptions to Terms and Conditions.
- An overview of the Respondent's plans for complying with the specifications of this RFP.
- Any other summary information the Respondent deems to be pertinent.

#### **Exhibit 3 – Firm Proposal Terms**

The Respondent shall guarantee in writing the goods and/or services offered in the Proposal are currently available and that all Proposal terms, including price, will remain firm 120 days following the deadline for submitting Proposals.

#### **Exhibit 4 – Acceptance of Terms and Conditions**

By submitting a Proposal, Respondent acknowledges its acceptance of the terms and conditions of the RFP and the General Terms and Conditions without change except as otherwise expressly stated in its Proposal. If the Respondent takes exception to a provision, it must identify it by page and section number, state the reason for the exception, and set forth in its Proposal the specific RFP or General Terms and Conditions language it proposes to include in place of the provision. If Respondent's exceptions or responses materially alter the RFP, or if the Respondent submits its own terms and conditions or otherwise fails to follow the process described herein, the Agency may reject the Proposal, in its sole discretion.

#### **Exhibit 5 – Certification Letter**

The Respondent shall sign and submit with the Proposal, the document included as Attachment #1 (Certification Letter) in which the Respondent shall make the certifications included in Attachment #1.

#### **Exhibit 6 – Authorization to Release Information**

The Respondent shall sign and submit with the Proposal the document included as Attachment #2 (Authorization to Release Information Letter) in which the Respondent authorizes the release of information to the Agency.

#### **Exhibit 7 – Termination, Litigation, and Debarment**

The Respondent must provide the following information for the past five (5) years:

- Has the Respondent had a contract for goods and/or services terminated for any reason? If so, provide full details regarding the termination.
- Describe any damages or penalties assessed against or dispute resolution settlements entered into by Respondent under any existing or past contracts for goods and/or services. Provide full details regarding the circumstances, including dollar amount of damages, penalties and settlement payments.
- Describe any order, judgment or decree of any Federal or State authority barring, suspending or otherwise limiting the right of the Respondent to engage in any business, practice or activity.
- A list and summary of all litigation or threatened litigation, administrative or regulatory proceedings, or similar matters to which the Respondent or its officers have been a party.

- Any irregularities discovered in any of the accounts maintained by the Respondent on behalf of others. Describe the circumstances and disposition of the irregularities. Failure to disclose these matters may result in rejection of the Proposal or termination of any subsequent Contract. The above disclosures are a continuing requirement of the Respondent. Respondent shall provide written notification to the Agency of any such matter commencing or occurring after submission of a Proposal, and with respect to the successful Contractor, following execution of the Contract.

### **Exhibit 8 – Mandatory Specifications**

The successful Contractor shall provide the goods and/or services to the State in accordance with the specifications and technical specifications as provided in this Exhibit. The Respondent shall address each specification in this Exhibit and indicate whether or not it will comply with the specification. If the context requires more than a yes or no answer or the section specifically indicates, Respondent shall explain how it will comply with the specification. Proposals must address each specification. Merely repeating the specifications may be considered non-responsive and may disqualify the Respondent. Proposals must identify any deviations from the specifications of this RFP or specifications the Respondent cannot satisfy. If the Respondent deviates from or cannot satisfy the specification (s) of this section, the Agency may reject the Proposal.

All items listed in this Exhibit are Mandatory Specifications. Respondents must indicate either “yes” or “no” to each specification in their Proposals and provide an explanation as to how the specification is met. By indicating “yes” a Respondent agrees that it shall comply with that specification throughout the full term of the Contract, if the Respondent is successful. In addition, if specified by the specifications or if the context otherwise requires, the Respondent shall provide references and/or supportive materials to verify the Respondent’s compliance with the specification. The Agency shall have the right to determine whether the supportive information and materials submitted by the Respondent demonstrate that the Respondent will be able to comply with the Mandatory Specifications. If the Agency determines the responses and supportive materials do not demonstrate the Supplier will be able to comply with the Mandatory Specifications, the Agency may reject the Proposal.

- Must demonstrate ability to conduct housing inspections in accordance with OSHA and ETA standards:
  - Occupational Safety and Health Administration (OSHA) standards found at Title 29, Part 1910.142 of the Code of Federal Regulations (CFR) or U.S. Department of Labor, Employment and Training Administration (ETA) standards found at 20 CFR 654, Subpart E, and any applicable state codes
- Must demonstrate ability to conduct housing inspections utilizing forms in RFP Appendix I, II, III
  - Explain experience and comprehension of the forms
- Must demonstrate ability to complete housing inspections within seven calendar days of request
- Must demonstrate ability to operate statewide
- Must demonstrate ability to accurately calculate square footage and occupancy capacity
- Must demonstrate ability to communicate via email and cellular phone

### **Exhibit 9 – Respondent Background Information**

The Respondent shall provide the following general background information:

- Does your state have a preference for instate Contractors? Yes or No. If yes, please include the details of the preference.
- Name, address, telephone number, fax number and e-mail address of the Respondent including all d/b/a’s or assumed names or other operating names of the Respondent and any local addresses and phone numbers.
- Form of business entity, i.e., corporation, partnership, proprietorship, or LLC.
- Copy of W-9.
- State of incorporation, state of formation, or state of organization.
- The location(s) including address and telephone numbers of the offices and other facilities that relate to the Respondent’s performance under the terms of this RFP.
- Number of employees.
- Type of business.

- Name, address and telephone number of the Respondent's representative to contact regarding all contractual and technical matters concerning the Proposal.
- Name, contact information and qualifications of any subcontractors who will be involved with this project the Respondent proposes to use and the nature of the goods and/or services the subcontractor would perform.
- Respondent's accounting firm.
- Awarded Contractor will be required to register to do business in Iowa before payments can be made.
- For Contractor registration documents, go to:  
[http://das.gse.iowa.gov/procurement/vendor\\_reg.html](http://das.gse.iowa.gov/procurement/vendor_reg.html)

#### **Exhibit 10 – Experience**

The Respondent must provide the following information regarding its experience:

- Number of years in business.
- Number of years of experience with providing the types of services sought by the RFP.
- The level of technical experience in providing the types of services sought by the RFP.
- Describe your firm's competencies, expertise, and/or certifications in providing the services sought by the RFP.
- Provide examples of three engagements similar to those sought by this RFP you have successfully completed on the services sought by the RFP. Please include an explanation of project size, scope and complexity.
- Letters of reference from three (3) previous or current customers or clients knowledgeable of the Respondent's performance in providing goods and/or services similar to the goods and/or services described in this RFP and a contact person and telephone number for each reference.

#### **Exhibit 11 – Project Management Team**

The Respondent must show it has a knowledgeable, accessible and experienced project manager and an experienced team with the responsibility, integrity and authority to deliver the services required. The Respondent must provide specific personnel and demonstrate how their qualifications apply to the requirements listed. Provide resumes for those individuals who will be assigned to perform the work in the awarded contract.

- List all key personnel assigned to the project by level and name. Provide a description of their background, along with a summary of their experience in providing similar services, and any specialized expertise they may have. Background descriptions can be a resume, curriculum vitae (CV), or summary sheet.
  - Years of experience and employment history, particularly as it relates to the requirements of this RFP. Include experience on similar projects.

#### **Exhibit 12 – Implementation Plan**

- Describe recommended implementation strategy including on-site coordination and support services, best practice consulting options and professional services.
- Identify any third parties involved in Respondent's implementation strategy and describe these relationships.
- Describe the documentation provided with the product/services along with applicable costs for any additional documentation.

#### **Exhibit 13 – Reports**

- Provide status reports on a regular basis to keep the Agency informed of a project progress.
- As requested, meet with the Agency to discuss the status of the project, applicant concerns, and any other issues that may have arisen during the administration of the program. Provide the Agency with project progress reports on demand, as well as access to the project management system, that the project can be monitored. Report information will include project activity deemed critical by the Agency.
- In addition to keeping the Agency informed of the progress with each project, compile and review information necessary to prepare reports required under regulations.

#### **Exhibit 14 – Customer Service**

- Describe respondent's philosophy as it relates to the client relationship.
- Describe respondent's communication plan. Include request tracking and status change notifications.

- Does respondent have any staff requirements as it relates to timeliness in responding to client requests, questions and complaints?
- What location/office will serve as the primary office for the State contract?
- Where is your customer service center located?

#### **Exhibit 15 – Optional Features**

- Describe any other related services or capabilities you would like the State to know about?
- Is there any other information you would like to share as it relates to this RFP?
- Provide detailed information for any optional items that may be available. (Include costs for these items in the Cost Proposal)

#### **Exhibit 16 – Performance-Based Criteria**

Performance-based measures are required to be included in any State contract pursuant with Iowa Code section 8.47 (1) (Iowa Supp. 2001) (2001 Iowa Acts, House file 687, section 5).

- Describe any performance-based incentives and disincentives that the Respondent would propose including in the resulting contract.

#### **Exhibit 17 – Addendums**

Provide signed copy of posted RFP addendums. The addendum identifying the point value assigned to specific Section 3 Exhibits (Technical Proposal), as described in Section 4, does not need to be included in response as it will possibly be posted after Responses are delivered.

### **3.3 Cost Proposal**

The Respondent shall provide its cost proposal in a separately sealed envelope for the proposed goods and/or services. All prices are quoted pursuant to the terms and conditions of this RFP. Respondent's Cost Proposal shall include an all-inclusive, itemized, total cost in U.S. Dollars (including all travel, expenses, etc. in prices) for the proposed services. All pricing to be FOB Destination, freight cost, and all expenses included; and based on Net 60 Days Payment Terms. Cost proposals must utilize Cost Proposal Attachment #6 format and include the following:

Price Schedule. Proposers are to provide a per-housing facility lump sum price, broken down by inspection and an hourly rate.

- Provide any one time and recurring costs for system. Recurring costs are to be for a 6 year period to cover initial term and extensions to contract.
- Equipment costs.
- Any other costs associated with proposed system.
- Pricing for options.

#### **3.3.1 Payment Methods**

The State of Iowa, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract. The State Pcard and EAP are preferred payment methods, but payments may be made by any of the following methods: Pcard/EAP, EFT/ACH, or State Warrant. Contractors shall provide payment acceptance information in this section 3.3.1 in their Cost Proposals. **This information will not be scored as part of the Cost Proposal or evaluated as part the Technical Proposal.**

##### **3.3.1.1 Credit card or ePayables**

The State of Iowa's Purchasing Cards (Pcards) and ePayable solution (EAP) are commercial payment methods utilizing the VISA credit card network. The State of Iowa will not accept price changes or pay additional fees if Contractor uses the Pcard or EAP payment methods. Pcard-accepting Contractors must abide by the State of Iowa's Terms of Pcard Acceptance, as provided in the RFP. Contractors must provide a statement regarding their ability to meet the

requirements I this subsection, as well as identifying their transaction reporting capabilities (Level I, II, or III).

### **3.3.1.2 Electronic Funds Transfer (EFT) by Automated Clearing House (ACH)**

Contractors shall provide a statement regarding their ability to accept payment by EFT by ACH. Payments are deposited into the financial institution of the claimant's choice three working days from the issue date of the direct deposit.

[https://das.iowa.gov/sites/default/files/acct\\_sae/man\\_for\\_ref/forms/eft\\_authorization\\_form.pdf](https://das.iowa.gov/sites/default/files/acct_sae/man_for_ref/forms/eft_authorization_form.pdf)

### **3.3.1.3 State Warrant**

The State of Iowa's warrant drawn on the Treasurer of State is used to pay claims against the departments of the State of Iowa. The warrant is issued upon receipt of proper documentation from the issuing department.

### **3.3.2 Payment Terms**

Per Iowa Code 8A.514 the State of Iowa is allowed sixty (60) days to pay an invoice submitted by a Vendor/Contractor.

### **3.3.3 Contractor Discounts**

Contractors shall state in their Cost Proposals whether they offer any payment discounts, including but not limited to:

#### **3.3.3.1 Prompt Payment Discount**

The State can agree to pay in less than sixty (60) days if an incentive for earlier payment is offered.

#### **3.3.3.2 Cash Discount**

The State may consider cash discounts when scoring Cost Proposals.

**4.1 Introduction**

This section describes the evaluation process that will be used to determine which Proposal(s) provides the greatest value to the State. Agency will not necessarily award the Contract to the Contractor offering the lowest cost to the Agency. Instead, the Agency will award to the Contractor whose Responsive Proposal the Agency believes will provide the best value to the State.

**4.2 Evaluation Committee**

The Agency will use an evaluation committee to conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. The evaluation committee will recommend an award based on the results of their evaluation to the Agency or to such other person or entity that must approve the recommendation.

**4.3 Scoring Breakdown**

Technical Proposal	700
Cost Proposal	300
Total	1000

**4.4 Technical Proposal Evaluation and Scoring**

All Technical Proposals will be evaluated to determine if they comply with the Mandatory Specifications. The evaluation committee will fully evaluate and score all Responsive Proposals submitted by Responsible Respondents in accordance with this Section. In addition to other RFP requirements, to be deemed a Responsive Proposal, the Proposal must:

- Answer “Yes” to all parts of Section 3, Exhibit 8 and include supportive materials as required to demonstrate the Respondent will be able to comply with the Mandatory Specifications in that section and
- Obtain the minimum score of 490 points (70%) of the available 700 points for the Technical Proposal.

An addendum identifying the point value assigned to specific Section 3 Exhibits (Technical Proposal) will be posted prior to opening submitted proposals.

**4.5 Tied Bids and Preferences**

An award shall be determined by a drawing when responses are received that are equal in all respects and tied in price. Whenever it is practical to do so, the drawing will be held in the presence of the contractors who are tied in price. Otherwise the drawing will be made in front of at least three non-interested parties. All drawings shall be documented.

Notwithstanding the foregoing, if a tied bid involves an Iowa-based contractor or products produced within the State of Iowa and a contractor based or products produced outside the State of Iowa, the Iowa contractor will receive preference. If a tied bid involves one or more Iowa contractors and one or more contractors outside the state of Iowa, a drawing will be held among the Iowa contractors only.

In the event of a tied bid between Iowa contractors, the Agency shall contact the Iowa Employer Support of the Guard and Reserve (ESGR) committee for confirmation and verification as to whether the contractors have complied with ESGR standards. Preference, in the case of a tied bid, shall be given to Iowa contractors complying with ESGR standards.

Second preference in tied bids will be given to contractors based in the United States or products produced in the United States over contractors based or products produced outside the United States.

Preferences required by applicable statute or rule shall also be applied, where appropriate.

#### 4.6 Cost Proposal Scoring

After the Technical Proposals are evaluated and scored, those proposals which meet the minimum score for the Technical Specifications will advance in the evaluation process and their Cost Proposals will be opened and scored.

To assist the agency in evaluating, Cost Proposals may be evaluated and points awarded as follows. The Cost Proposals will remain sealed during the evaluation of the Technical Proposal and any Bidder Demonstration. Only prospective contractors that meet all of the required features will be considered during the cost evaluation phase of the review process. The compliant prospective contractor's technical points will be added to the cost points, to obtain the total points awarded for the proposal. The Cost Proposals will be ranked from cheapest to the most expensive. The cheapest shall receive the maximum number of points available in this section. To determine the number of points to be awarded all other Cost Proposals, the cheapest bid will be used in all cases as the numerator. Each of the other bids will be used as the denominator. The percentage will then be multiplied by the maximum number of points and the resulting number will be the cost points awarded to other compliant contractors. Percentages and points will be rounded to the nearest whole value.

Example:

Contractor A quotes \$35,000; Contractor B quotes \$45,000 and Contractor C quotes \$65,000.

Contractor A:  $\frac{\$35,000}{\$35,000}$  = receives 100% of available points on cost.

Contractor B:  $\frac{\$35,000}{\$45,000}$  = receives 78% of available points on cost.

Contractor C:  $\frac{\$35,000}{\$65,000}$  = receives 54% of available points on cost.

**5.1 Contract Terms and Conditions**

The Contract that the Agency expects to award as a result of this RFP shall comprise the specifications, terms and conditions of the RFP, written clarifications or changes made in accordance with the provisions of the RFP, the General Terms and Conditions, the offer of the successful Contractor contained in its Proposal, and any other terms deemed necessary by the Agency. No objection or amendment by a Contractor to the provisions or terms and conditions of the RFP or the General Terms and Conditions shall be incorporated into the Contract unless Agency has explicitly accepted the Contractor's objection or amendment in writing.

The General Terms and Conditions will be incorporated into the Contract. The General Terms and Conditions may be supplemented at the time of contract execution and are provided to enable Contractors to better evaluate the costs associated with the RFP specifications and the Contract. All costs associated with complying with these specifications should be included in any pricing quoted by the Contractor.

**By submitting a Proposal, Contractor acknowledges its acceptance of the terms and conditions of the RFP and the General Terms and Conditions without qualification except as otherwise expressly stated in its Proposal. If the Contractor takes exception to a provision, it must identify it by page and section number, state the reason for the exception, and set forth in its Proposal the specific RFP or General Terms and Conditions language it proposes to include in place of the provision. If Contractor's exceptions or proposed responses materially alter the RFP, or if the Contractor submits its own terms and conditions or otherwise fails to follow the process described herein, the Agency may reject the Proposal, in its sole discretion.**

The Agency reserves the right to either award a Contract(s) without further negotiation with the successful Contractor or to negotiate Contract terms with the successful Contractor if the best interests of the State would be served.

**5.2 Attached Agreement**

The Contract will require the successful Contractor to agree to terms contained in RFP Attachment 7. Hosting terms will be either included or excluded based on Vendor or Agency providing hosting – to be decided during the RFP evaluation. Exceptions are to be noted on RFP Attachment 4.

**5.4 Contract Length**

The term of the Contract will begin and end on the dates indicated on the RFP cover sheet. The Agency shall have the sole option to renew the Contract upon the same or more favorable terms and conditions for up to the number of annual extensions identified on the RFP cover sheet.

**5.5 Monthly Report**

The Respondent shall provide an electronic detailed monthly report to the Department on all activity under this agreement. The State reserves the right to request more detailed information (ad-hoc reporting) at any time and on an individual or specific basis for a specific product, department, time frame, or for a range of products, departments or time frames.

**5.6 Insurance**

The Contract will require the successful Contractor to maintain insurance coverage(s) in accordance with the insurance provisions of the General Terms and Conditions and of the type and in the minimum amounts set forth in RFP Attachment 7.

**Attachment #1  
Certification Letter**

(Date) \_\_\_\_\_

Steve Oberbroeckling, Issuing Officer  
Iowa Department of Administrative Services  
Hoover State Office Building, Level 3  
1305 East Walnut Street  
Des Moines, IA 50319-0105

Re: Request for Proposal Number 0918005081 - PROPOSAL CERTIFICATIONS

Dear Steve:

I certify that the contents of the Proposal submitted on behalf of **(Name of Respondent)** in response to **Iowa Department of Administrative Services** for Request for Proposal Number 0918005081 for Foreign Labor Housing Inspection are true and accurate. I also certify that Respondent has not knowingly made any false statements in its Proposal.

**Certification of Independence**

I certify that I am a representative of Respondent expressly authorized to make the following certifications on behalf of Respondent. By submitting a Proposal in response to the RFP, I certify on behalf of the Respondent the following:

1. The Proposal has been developed independently, without consultation, communication or agreement with any employee or consultant to the Agency or with any person serving as a member of the evaluation committee.
2. The Proposal has been developed independently, without consultation, communication or agreement with any other Respondent or parties for the purpose of restricting competition.
3. Unless otherwise required by law, the information found in the Proposal has not been and will not be knowingly disclosed, directly or indirectly prior to Agency's issuance of the Notice of Intent to Award the contract.
4. No attempt has been made or will be made by Respondent to induce any other Contractor to submit or not to submit a Proposal for the purpose of restricting competition.
5. No relationship exists or will exist during the contract period between Respondent and the Agency or any other State agency that interferes with fair competition or constitutes a conflict of interest.

**Certification Regarding Debarment**

I certify that, to the best of my knowledge, neither Respondent nor any of its principals: (a) are presently or have been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal Agency or State Agency; (b) have within a five year period preceding this Proposal been convicted of, or had a civil judgment rendered against them for commission of fraud, a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of antitrust statutes; commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are presently indicted for or criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in (b) of this certification; and (d) have not within a three year period preceding this Proposal had one or more public transactions (federal, state, or local) terminated for cause.

This certification is a material representation of fact upon which the Agency has relied upon when this transaction was entered into. If it is later determined that Respondent knowingly rendered an erroneous certification, in addition to other remedies available, the Agency may pursue available remedies including suspension, debarment, or termination of the contract.

**Certification Regarding Registration, Collection, and Remission of Sales and Use Tax**

Pursuant to *Iowa Code sections 423.2(10) and 423.5(8) (2013)* a retailer in Iowa or a retailer maintaining a business in Iowa that enters into a contract with a state agency must register, collect, and remit Iowa sales tax and Iowa use tax levied under *Iowa Code chapter 423* on all sales of tangible personal property and enumerated services. The Act also requires Contractors to certify their

compliance with sales tax registration, collection, and remission requirements and provides potential consequences if the certification is false or fraudulent.

By submitting a Proposal in response to the (RFP), the Respondent certifies the following: (check the applicable box)

- Respondent is registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by *Iowa Code chapter 423*; or
- Respondent is not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in *Iowa Code subsections 423.1(47) and (48)*.

Respondent also acknowledges that the Agency may declare the Respondent’s Proposal or resulting contract void if the above certification is false. The Respondent also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract in addition to other remedies available to Agency.

Sincerely,

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name and Title of Authorized Representative**

\_\_\_\_\_  
**Date**

**Attachment #2**  
**Authorization to Release Information Letter**

(Date) \_\_\_\_\_

Steve Oberbroeckling, Issuing Officer  
Iowa Department of Administrative Services  
Hoover State Office Building, Level 3  
1305 East Walnut Street  
Des Moines, IA 50319-0105

Re: Request for Proposal Number 0918005081 - AUTHORIZATION TO RELEASE INFORMATION

Dear Steve:

**(Name of Respondent)** hereby authorizes the **Iowa Department of Administrative Services** ("Agency") or a member of the Evaluation Committee to obtain information regarding its performance on other contracts, agreements or other business arrangements, its business reputation, and any other matter pertinent to evaluation and the selection of a successful Respondent in response to Request for Proposal (RFP) Number 0918005081.

The Respondent acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. The Respondent acknowledges that the information and opinions given by such person or entity may hurt its chances to receive contract awards from the State or may otherwise hurt its reputation or operations. The Respondent is willing to take that risk.

The Respondent hereby releases, acquits and forever discharges the State of Iowa, the Agency, their officers, directors, employees and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting the undersigned that it may have or ever claim to have relating to information, data, opinions, and references obtained by the Agency or the Evaluation Committee in the evaluation and selection of a successful Respondent in response to the RFP.

The Respondent authorizes representatives of the Agency or the Evaluation Committee to contact any and all of the persons, entities, and references which are, directly or indirectly, listed, submitted, or referenced in the Respondent's Proposal submitted in response to RFP.

The Respondent further authorizes any and all persons, and entities to provide information, data, and opinions with regard to its performance under any contract, agreement, or other business arrangement, its ability to perform, business reputation, and any other matter pertinent to the evaluation of the Respondent's Proposal. The Respondent hereby releases, acquits and forever discharges any such person or entity and their officers, directors, employees and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting the Respondent that it may have or ever claim to have relating to information, data, opinions, and references supplied to the Agency or the Evaluation Committee in the evaluation and selection of a successful Respondent in response to RFP.

A photocopy or facsimile of this signed Authorization is as valid as an original.

Sincerely,

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name and Title of Authorized Representative**

\_\_\_\_\_  
**Date**

Attachment #3  
Form 22 – Request for Confidentiality

**CONTRACTOR NOTE: SUBMISSION OF THIS FORM 22 IS REQUIRED**

**THIS FORM 22 (FORM) MUST BE COMPLETED AND INCLUDED WITH YOUR RESPONSE (PROPOSAL) TO THE REQUEST FOR PROPOSAL (RFP). THE FORM IS REQUIRED WHETHER THE PROPOSAL DOES OR DOES NOT CONTAIN INFORMATION FOR WHICH CONFIDENTIAL TREATMENT WILL BE REQUESTED.**

**FAILURE TO SUBMIT A COMPLETED FORM WILL RESULT IN THE PROPOSAL CONSIDERED NON-RESPONSIVE AND ELIMINATED FROM EVALUATION.**

**I. Confidential Treatment Is Not Requested**

A request for confidential treatment of information contained in our Proposal is not submitted.

Company	RFP Number	RFP Title
Signature	Title	Date

\*\*\*\*\*

**II. Confidential Treatment Is Requested**

***The below information is to be completed and signed ONLY if Contractor is requesting confidential treatment of any information submitted in its Proposal.***

Per the paragraph labeled as Public Records and Requests for Confidential Treatment in section 2 of the Request for Proposal (RFP), a Contractor requesting portions of its Proposal be maintained in confidence must complete this form and submit it with its Proposal. Contractors should read and familiarize themselves with chapter 22 of the Iowa Code regarding release of public records before completing this Form. Contractor shall refer to the paragraph labeled as Public Records and Requests for Confidential Treatment in section 2 of the RFP for instructions regarding how to request confidential treatment of portions of its Proposal.

**NOTE:**

- 1 Completion of this Form is the sole means of requesting confidential treatment.**
- 2 A CONTRACTOR MAY NOT REQUEST PRICING PROPOSALS BE HELD IN CONFIDENCE.**

Completion of the Form and Agency’s acceptance of Contractor’s submission does not guarantee the agency will grant Contractor’s request for confidentiality. The Agency may reject Contractor’s Proposal entirely in the event Contractor requests confidentiality and does submit a fully completed Form or requests confidentiality for portions of its Proposal that are improper under the RFP.

**To request confidentiality, Contractor must provide the following information:**

- 1  Contractor must conspicuously mark confidential material in its Proposal in accordance with the section titled Public Records and Requests for Confidential Treatment. **Check box when completed.**
  
- 2 Contractor must specifically identify and list the Proposal section(s) for which it seeks confidentiality and answer the following questions for each section listed:
  - Explain the specific grounds in *Iowa Code Chapter 22* or other applicable law which support treatment of the material as confidential.
  - Justify why the material should be kept in confidence.
  - Explain why disclosure of the material would not be in the best interest of the public.
  - Provide the name, address, telephone, and email for the Contractor’s person authorized to respond to inquiries by the Agency concerning the status of confidential materials.

**Please provide the information in the table below. Contractor may add additional lines if necessary or add additional pages using the same format as the table below.**

RFP Section:	Contractor must cite the specific grounds in <i>Iowa Code Chapter 22</i> or other applicable law which supports treatment of the material as confidential.	Contractor must justify why the material should be kept in confidence.	Contractor must explain why disclosure of the material would not be in the best interest of the public.	Contractor must provide the name, address, telephone, and email for the person at Contractor’s organization authorized to respond to inquiries by the Agency concerning the status of confidential materials.

- 3  Contractor must submit a Public Copy of its Proposal from which the confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Proposal as possible. **Check box when completed.**

This Form must be signed by the individual who signed the Contractor’s Proposal. The Contractor shall place this Form completed and signed in its Proposal immediately following the transmittal letter. A copy of this document shall be placed in all Proposals submitted including the Public Copy.

***\*Failure to provide the information required on this Form may result in rejection of Contractor’s submittal to request confidentiality or rejection of the Proposal as being non-responsive.***

***\*Please note that this Form is to be completed and signed only if you are submitting a request for confidential treatment of any information submitted in your Proposal.***

\_\_\_\_\_  
Company

\_\_\_\_\_  
RFP Number

\_\_\_\_\_  
RFP Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

-----

**Department of Administrative Services – Central Procurement Bureau Review**  
**(For Agency use only)**

- Contractor's Proposal is rejected as non-compliant because of one or more of the following reasons:
  - Contractor's Proposal is rejected due to not submitting a fully completed Form 22 to either request or not request confidential treatment of information.
  - Contractor's Proposal is rejected due to the request to treat the entire response as confidential.
  - Contractor's Proposal is rejected due to the request to treat Proposal pricing as confidential.
  - Contractor requested confidentiality without submitting a **fully completed** Form 22.
  - Contractor requested confidentiality and failed to conspicuously mark such material as confidential within its Proposal in accordance with the RFP.
  - Contractor requested confidentiality without submitting a public copy of its Proposal with the confidential information redacted.
  - Contractor requested confidentiality on material in contravention of the RFP.
  - Other: \_\_\_\_\_.
- Contractor's submission is accepted.<sup>1</sup>

\_\_\_\_\_  
Purchasing Agent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
RFP Number

\_\_\_\_\_  
RFP Title

\_\_\_\_\_  
**NOTE:** Agency's acceptance of Contractor's submission should not be construed as Agency's approval of Contractor's request for confidentiality. Instead, acceptance of Contractor's submission simply means that Agency believes Contractor's Form 22 appears fully completed in accordance with the RFP.

**Attachment #4**  
**Exceptions to Terms and Conditions**

Proposed exceptions should be listed in this in this attachment of contractor's proposal. Any proposed exceptions should be in a table similar to the one below:

<b>Section #</b>	<b>Original Text Referenced</b>	<b>Proposed Language</b>	<b>Reason for Exception</b>

**Attachment #5  
Response Check List**

RFP REFERENCE	RESPONSE INCLUDED	
	Yes	No
<b>Technical Proposal</b>		
One (1) original, two (2) copies of Proposal and One (1) electronic copy on digital media.		
One (1) Public Copy with Confidential Information Excised (optional)		
Exhibit 1 – Transmittal Letter (Include Attachment #3 – Form 22)		
Exhibit 2 – Executive Summary (If applicable, include Attachment #4)		
Exhibit 3 – Firm Proposal Terms		
Exhibit 4 – Acceptance of Terms and Conditions		
Exhibit 5 – Certification Letter (Include Attachment #1)		
Exhibit 6 – Authorization to Release Information (Include Attachment #2)		
Exhibit 7 – Termination, Litigation, and Debarment		
Exhibit 8 – Mandatory Specifications		
Exhibit 9 – Respondent Background Information		
Exhibit 10 – Experience		
Exhibit 11 – Project Management Team		
Exhibit 12 – Implementation Plan		
Exhibit 13 – Reports		
Exhibit 14 – Customer Service		
Exhibit 15 – Optional Features		
Exhibit 16 – Performance-Based Criteria		
Exhibit 17 – Addendums		
<b>Cost Proposal</b>		
One (1) original, two (2) copies of Proposal and One (1) electronic copy on digital media. (Include Attachment #6)		

**Attachment #6  
Cost Proposal Form**

**Payment Terms**

Per *Iowa Code § 8A.514* the State of Iowa is allowed sixty (60) days to pay an invoice submitted by a vendor.

What discount will you give for payment in 15 days? \_\_\_\_\_

What discount will you give for payment in 30 days? \_\_\_\_\_

**Cost Proposal**

Contractor's Cost Proposal shall include an all-inclusive, itemized, total cost in Firm U.S. Dollars (including all travel, expenses, etc. in prices). All pricing to be FOB Destination, freight cost and all expenses included; and based on Net 60 Days Payment Terms. Include any escalation over the course of six years. The following template is required. Please use additional pages to provide any additional narrative support for the costing information.

Price Schedule. Proposers are to provide a per-housing facility lump sum price, broken down by inspection and an hourly rate.

Deliverable Item (Approx. 175 Inspections)	Estimated # of Hours	Hourly Rate	Total First Term	Year 2	Year 3	Year 4	Year 5	Year 6	Total Recurring 6 Year Costs
Inspections		\$	\$	\$	\$	\$	\$	\$	\$
Hourly Rate		\$	\$	\$	\$	\$	\$	\$	\$
ES Form/Processing		\$	\$	\$	\$	\$	\$	\$	\$
Other (specify)		\$	\$	\$	\$	\$	\$	\$	\$
Other (specify)		\$	\$	\$	\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$	\$	\$	\$
<b>TOTAL COST:</b>		\$	\$	\$	\$	\$	\$	\$	\$

**Attachment #7  
STATE OF IOWA PROFESSIONAL SERVICES AGREEMENT**

Iowa Department of Administrative Services  
Contracts Declaration & Execution Page

Title of Contract:	Bid Proposal Number	Contract Number
This Agreement is entered into between the State of Iowa (by and through its agency, the Department of Administrative Services) and the Contractor named below:		
State Agency's Name:		
Contractor's Name:		
Contract to Begin:	Date of Expiration:	Annual Extensions:
The parties agree to comply with the terms and conditions and attachments which are by this reference made a part of the Agreement: Section 1 – Terms & Conditions .....Page 2 Section 2 – Scope of Work.....Page 26 Section 3 – Pricing.....Page 30 Section 4 – Contacts .....Page 32		

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto**

**Contractor:**

By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing	
Address	

**State of Iowa: Agency**

By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing	
Address	

**State of Iowa: Department of Administrative Services – Central Procurement**

By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing	
Address	

## SECTION 1 Terms & Conditions

### 1.1 Definitions

The following words shall be defined as set forth below:

**“Acceptance”** means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests. Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.

**“Acceptance Criteria”** means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

**“Acceptance Tests” or “Acceptance Testing”** mean the tests, reviews and other activities that are performed by or on behalf of Agency to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.

**“Bid Proposal” or “Proposal”** means the Contractor’s proposal submitted in response to the RFP.

**“Contract”** means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified on the Contract Declarations & Execution Page(s) and includes the signed Contract Declarations & Execution Page(s), the Special Terms, these General Terms for Services Contracts, any Special Contract Attachments, and all other attachments to the Contract Declarations & Execution Page(s).

**“Contract Declarations & Execution Page(s)”** means the document that contains basic information about the Contract and incorporates by reference these General Terms for Services Contracts, the Special Terms, and all other attachments to the Contract Declarations and Executions Page(s).

**“Deficiency”** means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

**“Deliverables”** means all of the goods, products, services, work, work product, items, materials and property to be created, developed, produced, delivered, performed or provided by or on behalf of, or made available through, Contractor (or any agent, contractor or subcontractor of Contractor) in connection with this Contract.

**“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

**“RFP” means** the Request for Proposals or Request for Bids (and any Addenda thereto) identified on the Contracts Declarations and Execution Page(s) that was issued to solicit the Deliverables that are subject to the Contract.

**“Special Contract Attachments”** means any attachment to this Contract indicated on the Contract Declarations & Execution Page(s).

**“Special Terms”** means the Contract attachment entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work, contract payment terms, and any amendments to these General Terms and Conditions for Services Contracts. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.

**“Specifications”** means all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the RFP, and the Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.

**“State”** means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

## **1.2 Availability of Contract to Other Entities**

All other agencies of the State of Iowa and all political subdivisions of the State of Iowa may make purchases pursuant to the Contract as permitted by the Competitive Bidding Document.

## **1.3 Duration of Contract**

The term of the Contract shall begin and end on the dates specified on the Contract Declarations & Execution Page(s), unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, exercise any applicable extension by giving the Contractor written notice of the extension decision at least sixty (60) days prior to the expiration of the initial term or renewal term.

## **1.4 Scope of Work**

The Contractor shall provide Deliverables that comply with and conform to the Specifications.

## **1.5 Compensation**

### **1.5.1 Pricing**

The Contractor will be compensated in accordance with the payment terms outlined in the Contract Payment Terms and Scope of Work described in the Special Terms.

The Contractor shall submit, on the frequency established on the Contract Declarations & Execution Page(s) an invoice for Deliverables rendered in accordance with this Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The Agency shall verify the Contractor’s performance of the Deliverables outlined in the invoice before making payment. The Agency shall pay all approved invoices in arrears and in conformance

with Iowa Code 8A.514. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code § 8A.514.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

### **1.5.2 Reimbursement Expenses**

The State has established rules for limitations on reimbursement expenses. Please reference Department of Administrative Services - State Accounting Enterprise Procedure 210-245 (accessible on the internet) for limits on travel expenses.

### **1.5.3 Withholding Payments**

In addition to pursuing any other remedy provided herein or by law, the Agency may withhold compensation or payments to Contractor, in whole or in part, without penalty to the Agency or work stoppage by Contractor, in the event the Agency determines that:

**1.5.3.1** Contractor has failed to perform any of its duties or obligations as set forth in this Contract; or

**1.5.3.2** Any Deliverable has failed to meet or conform to any applicable Specifications or contains or is experiencing a Deficiency.

No interest shall accrue or be paid to Contractor on any compensation or other amounts withheld or retained by the Agency under this Contract.

### **1.5.4 Setoff Against Sums Owed by the Contractor**

In the event that Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, set off any such sum against:

**1.5.4.1** Any sum invoiced by, or owed to, Contractor under this Contract, or

**1.5.4.2** Any sum or amount owed by the State to Contractor, unless otherwise required by law.

The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing setoff.

## **1.6 Termination**

### **1.6.1 Immediate Termination by the State**

The State may terminate this Contract for any of the following reasons effective immediately without advance notice:

**1.6.1.1** In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss

of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

**1.6.1.2** The State determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a person's life, health or safety to be jeopardized;

**1.6.1.3** The Contractor fails to comply with confidentiality laws or provisions;

**1.6.1.4** The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

## **1.6.2 Termination for Cause by the Agency**

The Agency may terminate this Contract upon written notice for the breach by Contractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency's notice of breach or any subsequent notice or correspondence delivered by the Agency to Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

**1.6.2.1** Contractor furnished any statement, representation, warranty or certification in connection with this Contract, the RFP or the Proposal that is false, deceptive, or materially incorrect or incomplete;

**1.6.2.2** Contractor or any of Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

**1.6.2.3** Contractor or any parent or affiliate of Contractor owning a controlling interest in Contractor dissolves;

**1.6.2.4** Contractor terminates or suspends its business;

**1.6.2.5** Contractor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by Contractor related to Contractor's performance under this Contract is suspended, terminated, revoked, or forfeited;

**1.6.2.6** Contractor has failed to comply with any applicable international, federal, state (including, but not limited to Iowa Code chapter 8F), or local laws, rules, ordinances, regulations or orders when performing within the scope of this Contract;

**1.6.2.7** The Agency determines or believes the Contractor has engaged in conduct that: (a) has or may expose the Agency or the State to material liability, or (b) has caused or may cause a person's life, health or safety to be jeopardized;

- 1.6.2.8** Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or Contractor misappropriates or allegedly misappropriates a trade secret;
- 1.6.2.9** Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or
- 1.6.2.10** Any of the following has been engaged in by or occurred with respect to Contractor or any corporation, shareholder or entity having or owning a controlling interest in Contractor:
  - 1.6.2.10.1** Commencing or permitting a filing against it which is not discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;
  - 1.6.2.10.2** Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;
  - 1.6.2.10.3** Making an assignment for the benefit of creditors;
  - 1.6.2.10.4** Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Contractor's performance of its obligations under this Contract; or
  - 1.6.2.10.5** Taking any action to authorize any of the foregoing. The Agency's right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

### **1.6.3 Termination upon Notice**

Following thirty (30) days written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to Contractor. Termination can be for any reason or no reason at all.

#### **1.6.4 Termination Due to Lack of Funds or Change in Law**

Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

- 1.6.4.1** The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or
- 1.6.4.2** If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or
- 1.6.4.3** If the Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or
- 1.6.4.4** If the Agency's duties, programs or responsibilities are modified or materially altered; or
- 1.6.4.5** If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects the Agency's ability to fulfill any of its obligations under this Contract. The Agency shall provide Contractor with written notice of termination pursuant to this section.

#### **1.6.5 Limitation of the State's Payment Obligations**

In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 1.6.2), the Agency shall pay only those amounts, if any, due and owing to Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 1.6.4, the Agency's obligation to pay Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of invoices and proper proof of Contractor's claim. Notwithstanding the foregoing, this Section 1.6.5 in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of Contractor's breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

- 1.6.5.1** The payment of unemployment compensation to Contractor's employees;
- 1.6.5.2** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

- 1.6.5.3** Any costs incurred by Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;
- 1.6.5.4** Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Contract;
- 1.6.5.5** Any taxes Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

#### **1.6.6 Contractor's Termination Duties**

Upon receipt of notice of termination or upon request of the Agency, Contractor shall:

- 1.6.6.1** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work performed under the Contract and such other matters as the Agency may require.
- 1.6.6.2** Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to Contractor.
- 1.6.6.3** Cooperate in good faith with the Agency and its employees, agents and independent contractors during the transition period between the notification of termination and the substitution of any replacement service provider.
- 1.6.6.4** Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by Contractor.
- 1.6.6.5** Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied as that time.

#### **1.6.7 Termination for Cause by Contractor**

Contractor may only terminate this Contract for the breach by the Agency of any material term, condition or provision of this Contract, if such breach is not cured within sixty (60) days of the Agency's receipt of Contractor's written notice of breach.

### **1.7 Confidential Information**

#### **1.7.1 Access to Confidential Information**

The Contractor's employees, agents and subcontractors may have access to confidential information maintained by the Agency to the extent necessary to carry out its responsibilities under the Contract. The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the Agency. The Contractor shall provide to the Agency a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information

conveyed in verbal, written, and electronic formats. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract. The private or confidential information shall remain the property of the Agency at all times.

**1.7.2 No Dissemination of Confidential information**

No confidential information collected, maintained, or used in the course of performance of the Contract shall be disseminated by Contractor except as authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. Any data supplied by the Agency to the Contractor or created by the Contractor in the course of the performance of this Contract shall be considered the property of the Agency. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of the Agency. The Contractor may be held civilly or criminally liable for improper disclosure of confidential information.

**1.7.3 Subpoena**

In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the Agency and cooperate with the Agency in any lawful effort to protect the confidential information.

**1.7.4 Reporting of Unauthorized Disclosure**

The Contractor shall immediately report to the Agency any unauthorized disclosure of confidential information.

**1.7.5** If Contractor requests confidential treatment with respect to any information or material contained within its Bid Proposal and if a judicial or administrative proceeding is initiated to compel the release of such material, Contractor shall, at its sole expense, appear in the proceeding or otherwise obtain an order restraining the release of such material from a court of competent jurisdiction. Agency may release the information or material with or without advance notice to Contractor if no judicial or administrative proceeding is initiated and Agency determines the information or material is not confidential under Iowa or other applicable law, or if Contractor failed to properly request confidential treatment under the RFP, or if Contractor rescinds its request for confidential treatment.

**1.7.6 Survives Termination**

The Contractor's obligations under this section shall survive termination or expiration of this Contract.

**1.8 Indemnification**

**1.8.1 By the Contractor**

The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers and agents (collectively the "Indemnified Parties"), from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments (including, without limitation, the reasonable value of the time spent by the Attorney General's Office, and the costs, expenses and

attorneys' fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

**1.8.1.1** Any breach of this Contract;

**1.8.1.2** Any negligent, intentional or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

**1.8.1.3** The Contractor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**1.8.1.4** Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Iowa;

**1.8.1.5** Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights or personal rights of any third party, including any claim that any Deliverable or any use thereof (or the exercise of any rights with respect thereto) infringes, violates or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other intellectual property right or proprietary right of any third party.

## **1.8.2 Survives Termination**

Contractor's duties and obligations under this section shall survive the termination of this Contract and shall apply to all acts or omissions taken or made in connection with the performance of this Contract regardless of the date any potential claim is made or discovered by the Agency or any other Indemnified Party.

## **1.9 Insurance**

### **1.9.1 Insurance Requirements**

The Contractor, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the Contractor's expense, insurance covering its work during the entire term of this Contract and any extensions or renewals thereof. The Contractor's insurance shall, among other things, be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the Agency shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

### **1.9.2 Types and Amounts of Insurance Required**

Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law.

<b>Type of Insurance</b>	<b>Limit</b>	<b>Amount</b>
General Liability (including contractual liability) written on an occurrence basis	General Aggregate Products – Comp/Op Aggregate Personal injury Each Occurrence	\$2 million \$1 Million \$1 Million \$1 Million
Automobile Liability (including contractual liability) written on an occurrence basis	Combined single limit	\$1 Million
Excess Liability, umbrella form	Each Occurrence Aggregate	\$1 Million \$1 Million
Errors and Omissions Insurance	Each Occurrence	\$1 Million
Property Damage	Each Occurrence Aggregate	\$1 Million \$1 Million
Workers Compensation and Employer Liability	As Required by Iowa law	As required by Iowa law

### **1.9.3 Certificates of Coverage**

Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract and any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The certificates shall be subject to approval by the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days' prior written notice to the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.

### **1.9.4 Waiver of Subrogation Rights**

The Contractor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the State.

## **1.10 Project Management & Reporting**

### **1.10.1 Project Manager**

At the time of execution of this Contract, each party shall designate, in writing, a Project Manager to serve until the expiration of this Contract or the designation of a substitute Project Manager. During the term of this Contract, each Project Manager shall be available to meet monthly, unless otherwise mutually agreed, to review and plan the Deliverables being provided under this Contract.

### **1.10.2 Review Meetings**

During the review meetings the Project Managers shall discuss progress made by the Contractor in the performance of this Contract. Each party shall provide a status report, as desired by a Project Manager, listing any problem or concern encountered since the last

meeting. Records of such reports and other communications issued in writing during the course of Contract performance shall be maintained by each party.

### **1.10.3 Reports**

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. For as long as a problem remains unresolved, written reports shall identify:

**1.10.3.1** Any event not within the control of the Contractor or the Agency that accounts for the problem;

**1.10.3.2** Modifications to the Contract agreed to by the parties in order to remedy or solve the identified problem;

**1.10.3.3** Damages incurred as a result of any party's failure to perform its obligations under this Contract; and

**1.10.3.4** Any request or demand by one party that another party believes is not included within the terms of this Contract.

### **1.10.4 Problem Reporting Omissions**

The Agency's acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy under this Contract or at law or equity that the Agency may have. The Agency's failure to identify the extent of a problem or the extent of damages incurred as a result of a problem shall not act as a waiver of performance or damages under this Contract. Where other provisions of this Contract require notification of an event in writing, the written report shall be considered a valid notice under this Contract provided the parties required to receive notice are notified.

### **1.10.5 Change Order Procedure**

The Agency may at any time request a modification to the Scope of Work using a change order. The following procedures for a change order shall be followed:

**1.10.5.1** Written Request: The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.

**1.10.5.2** The Contractor's Response: The Contractor shall submit to the Agency a firm cost proposal for the requested change order within five (5) business days of receiving the change order request.

**1.10.5.3** Acceptance of the Contractor Estimate: If the Agency accepts the cost proposal presented by the Contractor, the Contractor shall provide the modified Deliverable subject to the cost proposal included in the Contractor response. The Contractor's provision of the modified deliverables shall be governed by the terms and conditions of this Contract.

**1.10.5.4 Adjustment to Compensation:** The parties acknowledge that a change order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this Contract.

### **1.11 Legislative Changes**

The Contractor expressly acknowledges that the contracted Deliverables are subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the project, the Contractor shall not hold the Agency liable in any manner for the resulting changes. The Agency shall use best efforts to provide thirty (30) days' written notice to the Contractor of any legislative change. During the thirty (30)-day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency's right to terminate the Contract pursuant to the termination provisions.

### **1.12 Intellectual Property**

#### **1.12.1 Ownership and Assignment of Other Deliverables**

Contractor agrees that the State and Agency shall become the sole and exclusive owners of all Deliverables. Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary or affiliate of Contractor. The Contractor (and Contractor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate. Unless otherwise requested by Agency, upon completion or termination of this Contract, Contractor will immediately turn over to Agency all Deliverables not previously delivered to Agency, and no copies thereof shall be retained by Contractor or its employees, agents, subcontractors or affiliates, without the prior written consent of Agency.

#### **1.12.2 Waiver**

To the extent any of Contractor's rights in any Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's rights in and to the Deliverables.

#### **1.12.3 Further Assurances**

At the Agency's request, Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect or protect the State's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in this Contract.

## 1.13 Warranties

### 1.13.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law

Warranties made by the Contractor in this Contract, whether: (1) this Contract specifically denominates the Contractor's promise as a warranty; or (2) the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the Agency, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties that arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. The provisions of this section apply during the term of this Contract and any extensions or renewals thereof.

**1.13.2 Contractor represents and warrants that:** (1) all Deliverables shall be wholly original with and prepared solely by Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses and authority necessary to provide the Deliverables to the Agency hereunder and to assign, grant and convey the rights, benefits, licenses and other rights assigned, granted or conveyed to the Agency hereunder or under any license agreement related hereto without violating any rights of any third party; (2) Contractor has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the Agency herein; and (3) the Agency shall peacefully and quietly have, hold, possess, use and enjoy the Deliverables without suit, disruption or interruption.

**1.13.3 Contractor represents and warrants that:** (1) the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and (2) the Agency's use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. Contractor further represents and warrants there is no pending or threatened claim, litigation or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. Contractor shall inform the Agency in writing immediately upon becoming aware of any actual, potential or threatened claim of or cause of action for infringement or violation or an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then Contractor shall, at the Agency's request and at the Contractor's sole expense: (1) procure for the Agency the right or license to continue to use the Deliverable at issue; (2) replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; (3) modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; or (4) accept the return of the Deliverable at issue and refund to the Agency all fees, charges and any other amounts paid by the Agency with respect to such Deliverable. In addition, Contractor agrees to indemnify, defend, protect and hold harmless the State and its officers, directors, employees, officials and agents as provided in the Indemnification section of this Contract, including for any breach of the representations and warranties made by Contractor in this section. The foregoing remedies

shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

**1.13.4 Contractor represents and warrants that the Deliverables (in whole and in part) shall:** (1) be free from material Deficiencies; and (2) meet, conform to and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period, as defined in the Special Terms. During the Warranty Period Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five business days of receiving notice of such Deficiencies or failures from the Agency or within such other period as the Agency specifies in the notice. In the event Contractor is unable to repair, correct or replace such Deliverable to the Agency's satisfaction, Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal or equitable remedies. Contractor shall be available at all reasonable times to assist the Agency with questions, problems and concerns about the Deliverables, to inform the Agency promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverable may have been accepted by the Agency, and provide the Agency with all necessary materials with respect to such repaired or corrected Deliverable.

**1.13.5 Contractor represents, warrants and covenants** that all services to be performed under this Contract shall be performed in a professional, competent, diligent and workmanlike manner by knowledgeable, trained and qualified personnel, all in accordance with the terms and Specifications of this Contract and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard. So long as the Agency notifies Contractor of any services performed in violation of this standard, Contractor shall re-perform the services at no cost to the Agency, such that the services are rendered in the above-specified manner, or if the Contractor is unable to perform the services as warranted, Contractor shall reimburse the Agency any fees or compensation paid to Contractor for the unsatisfactory services.

**1.13.6 Contractor represents and warrants** that the Deliverables will comply with any applicable federal, state, foreign and local laws, rules, regulations, codes, and ordinances in effect during the term of this Contract, including applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board, the Iowa Department of Administrative Services, and Iowa Office of the Chief Information Officer.

**1.13.7 Obligations Owed to Third Parties**

The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the Agency will not have any obligations with respect thereto.

## **1.14 Acceptance Testing**

Except as otherwise specified in the Scope of Work, all Deliverables shall be subject to the Agency's Acceptance Testing and Acceptance, unless otherwise specified in the Statement of Work. Upon completion of all work to be performed by Contractor with respect to any Deliverable, Contractor shall deliver a written notice to the Agency certifying that the Deliverable meets and conforms to applicable Specifications and is ready for the Agency to conduct Acceptance Tests; provided, however, that Contractor shall pretest the Deliverable to determine that it meets and operates in accordance with applicable Specifications prior to delivering such notice to the Agency. At the Agency's request, Contractor shall assist the Agency in performing Acceptance Tests at no additional cost to the Agency. Within a reasonable period of time after the Agency has completed its Acceptance Testing, the Agency shall provide Contractor with written notice of Acceptance or Non-acceptance with respect to each Deliverable that was evaluated during such Acceptance Testing. If the Agency determines that a Deliverable satisfies its Acceptance Tests, the Agency shall provide Contractor with notice of Acceptance with respect to such Deliverable. If the Agency determines that a Deliverable fails to satisfy its Acceptance Tests, the Agency shall provide Contractor with notice of Non-acceptance with respect to such Deliverable. In the event the Agency provides notice of Non-acceptance to Contractor with respect to any Deliverable, Contractor shall correct and repair such Deliverable and submit it to the Agency within ten (10) days of Contractor's receipt of notice of Non-acceptance so that the Agency may re-conduct its Acceptance Tests with respect to such Deliverable. In the event the Agency determines, after re-conducting its Acceptance Tests with respect to any Deliverable that Contractor has attempted to correct or repair pursuant to this section, that such Deliverable fails to satisfy its Acceptance Tests, then the Agency shall have the continuing right, at its sole option, to:

- 1.14.1** Require Contractor to correct and repair such Deliverable within such period of time as the Agency may specify in a written notice to Contractor;
- 1.14.2** Refuse to accept such Deliverable without penalty and without any obligation to pay any fees or other amounts associated with such Deliverable (or receive a refund of any fees or amounts already paid with respect to such Deliverable);
- 1.14.3** Accept such Deliverable on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the Agency's satisfaction, the Deficiencies present therein and any reduced value or functionality of such Deliverable or the costs likely to be incurred by the Agency to correct such Deficiencies; or
- 1.14.4** Terminate this Contract and/or seek any and all available remedies, including damages. Notwithstanding the provisions of Section 1.6.1 of this Contract, the Agency may terminate this Contract pursuant to this section without providing Contractor with any notice or opportunity to cure provided for in Section 1.6.1. The Agency's right to exercise the foregoing rights and remedies, including termination of this Contract, shall remain in effect until Acceptance Tests are successfully completed to the Agency's satisfaction and the Agency has provided Contractor with written notice of Final Acceptance. If the Agency determines that all Deliverables satisfy its Acceptance Tests, the Agency shall provide Contractor with notice of Final Acceptance with respect to such Deliverables. Contractor's receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable(s) shall not be construed as a waiver of any of the Agency's rights to enforce the terms of this Contract or require performance in the event Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable(s).

## **1.15 Contract Administration**

### **1.15.1 Independent Contractor**

The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

### **1.15.2 Incorporation of Documents**

To the extent this Contract arises out of an RFP, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the RFP and the Bid Proposal. The RFP and the Bid Proposal are incorporated into the Contract by reference, except that no objection or amendment by the Contractor to the provisions of the RFP shall be incorporated by reference into the Contract unless the Agency has explicitly accepted the Contractor's objection or amendment in writing. If there is a conflict between the Contract, the RFP and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the RFP; (3) the Bid Proposal.

### **1.15.3 Intent of References to Bid Documents**

The references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the RFP and the Bid Proposal. The failure of the parties to make reference to the terms of the RFP or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFP and the Contractor's Bid Proposal. The contractual obligations of the Agency cannot be implied from the Bid Proposal.

### **1.15.4 Compliance with the Law; Nondiscrimination in Employment**

The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers. Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in section 1.15.11, Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**1.15.5 Procurement**

Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

**1.15.6 Non-Exclusive Rights**

This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the term of this Contract.

**1.15.7 Non-Supplanting Requirement**

To the extent required by state or federal law, federal and state funds made available under this Contract shall be used to supplement and increase the level of state, local and other non-federal funds that would in the absence of such federal and state funds be made available for the programs and activities for which funds are provided and will in no event take the place of state, local and other non-federal funds.

**1.15.8 Compliance with Iowa Code chapter 8F**

If the Contract is subject to the provisions of Iowa Code chapter 8F, the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontracts it enters into pursuant to this Contract. Any compliance documentation, including but not limited to certifications, received from subcontractors by the Contractor shall be forwarded to the Agency.

**1.15.9 Amendments**

This Contract may be amended in writing from time to time by mutual consent of the parties. Amendments to the General Terms for Services Contracts may appear in the Special Terms.

**1.15.10 Third Party Beneficiaries**

There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

**1.15.11 Use of Third Parties**

The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under

this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

**1.15.12 Choice of Law and Forum**

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

**1.15.13 Assignment and Delegation**

Contractor may not assign, transfer or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

**1.15.14 Integration**

This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**1.15.15 Headings or Captions**

The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**1.15.16 Not a Joint Venture**

Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

**1.15.17 Joint and Several Liability**

If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of activities and obligations.

**1.15.18 Supersedes Former Contracts or Agreements**

This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

**1.15.19 Waiver**

Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**1.15.20 Notice**

Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by a reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in the Contract Declarations & Execution Page(s) at the address specified on the forms. Each such notice shall be deemed to have been provided:

**1.15.20.1** At the time it is actually received; or,

**1.15.20.2** Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

**1.15.20.3** Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

**1.15.21 Cumulative Rights**

The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

**1.15.22 Severability**

If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**1.15.23 Time is of the Essence**

Time is of the essence with respect to the Contractor's performance of the terms of this Contract. Contractor shall ensure that all personnel providing Deliverables to the Agency are responsive to the Agency's requirements and requests in all respects.

**1.15.24 Authorization**

Contractor represents and warrants that:

**1.15.24.1** It has the right, power and authority to enter into and perform its obligations under

this Contract.

**1.15.24.2** It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

**1.15.25 Successors in Interest**

All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

**1.15.26 Records Retention and Access**

The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the Agency throughout the term of this Contract and for a period of at least five (5) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the five (5) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five (5) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. Based on the audit findings, the Agency reserves the right to address the Contractor's board or other managing entity regarding performance and expenditures.

**1.15.26.1** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third party in-kind (property or service) contributions must be verifiable from the Contractor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

**1.15.26.2** The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

**1.15.26.3** The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

**1.15.26.4** The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring and evaluating its program.

**1.15.26.5** The Contractor shall retain all medical records for a period of six (6) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code section 614.1(9). Client records, which are non-medical, must be maintained for a period of five (5) years.

#### **1.15.27 Audits or Examination of Records**

**1.15.27.1** Contractors that expend \$750,000 or more in a fiscal year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements. Single audits must be completed and the data collection form and reporting package must be submitted electronically to the Federal Audit Clearinghouse within the earlier of thirty (30) calendar days after Contractor's receipt of the auditor's report(s), or nine months after the end of the audit period. The Contractor shall submit to the Agency one (1) copy of the separate letter to management addressing non-material findings, if provided by the auditor, promptly following receipt by Contractor. Contractor shall also submit one (1) copy of the final audit report to the Agency within thirty (30) days after Contractor's receipt thereof, if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. The requirements of this subsection shall apply to the Contractor as well as any subcontractors.

**1.15.27.2** If a Contractor is independently audited but is not required to submit the audit report per the criteria in subsection 1.15.27.1 above, the Contractor shall submit to the Agency one (1) copy of the separate letter to management addressing non-material findings, if provided by the auditor, promptly following receipt by Contractor. Within fifteen (15) days following Agency's request, the Contractor shall also submit one (1) copy of the final audit report to the Agency.

**1.15.27.3** The Agency may require, at any time and at its sole discretion, that recipients of non-federal and/or federal funds have an audit performed. The Contractor shall submit one (1) copy of the audit report to the Agency within thirty (30) days of its issuance, unless specific exemption is granted in writing by the Agency. The Contractor shall submit with the audit report a copy of the separate letter to management addressing non-material findings, if provided by the auditor. The Contractor may be required to comply with other prescribed compliance and review procedures.

**1.15.27.4** The Contractor shall be solely responsible for the cost of any required audit unless otherwise agreed in writing by the Agency.

#### **1.15.28 Qualifications of Staff**

The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors or anyone acting for or on behalf of the Contractor, are properly licensed, certified or accredited as required under applicable state law and the Iowa

Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified or accredited under state law or the Iowa Administrative Code.

**1.15.29 Solicitation**

The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

**1.15.30 Obligations Beyond Contract Term**

This Contract shall remain in full force and effect to the end of the specified term or until terminated pursuant to this Contract. All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the termination or expiration of this Contract.

**1.15.31 Counterparts**

The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**1.15.32 Delays or Impossibility of Performance**

Neither party shall be in default under the Contract if performance is prevented, delayed or made impossible to the extent that such prevention, delay, or impossibility is caused by a "force majeure." The term "force majeure" as used in this Contract includes an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, war, civil disturbance and other similar causes. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. "Force majeure" does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of Contractor; claims or court orders that restrict Contractor's ability to deliver the Deliverables contemplated by this Contract; strikes; labor unrest; or supply chain disruptions. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Contract. If a "force majeure" delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency. The party seeking to exercise this provision and not perform or delay performance pursuant to a "force majeure" shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

**1.15.33 Suspensions and Debarment**

The Contractor certifies pursuant to 48 CFR Part 9 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily

excluded from participation in this Contract by any federal Agency or State Agency. The Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contracts with the State of Iowa.

**1.15.34 Conflict of Interest**

Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the Agency that is a conflict of interest. No employee, officer or agent of the Contractor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code ch. 68B shall apply to this Contract. If a conflict of interest is proven to the Agency, the Agency may terminate this Contract, and the Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the Agency.

**1.15.35 Certification Regarding Sales and Use Tax**

By executing this Contract, the Contractor certifies it is either (a) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (b) not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code subsections 423.1(47) & (48). The Contractor also acknowledges that the Agency may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract.

**1.15.36 Right to Address the Board of Directors or Other Managing Entity**

The Agency reserves the right to address the Contractor’s board of directors or other managing entity of the Contractor regarding performance, expenditures and any other issue as appropriate. The Agency determines appropriateness.

**1.15.37 Repayment Obligation**

In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**1.15.38 Further Assurances and Corrective Instruments**

The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such amendments hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Contract.

**1.15.39 Reporting Requirements**

If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the

Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

**1.15.40 Immunity from Liability**

Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

**1.15.41 Public Records**

The laws of the State require procurement records to be made public unless otherwise provided by law.

**1.15.42 Use of Name or Intellectual Property**

Contractor agrees it will not use the Agency and/or State's name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

**1.15.43 Taxes**

The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. The State is exempt from State and local sales and use taxes on the Deliverables.

**1.15.44 No Minimums Guaranteed**

The contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

**SECTION 2**  
**Scope of Work**

**2.1 General Specifications**

**2.2 Services**

**SECTION 3**  
**Pricing**

**3.1 Fixed Fee Services**

**SECTION 4**  
**Project Managers**

**4.1 Project Manager - Contractor**

**4.2 Project Manager - State of Iowa**

**4.3 State of Iowa – DAS/Procurement Contact**

**Appendix I  
IWD Inspection Checklist**



<b>IA SWA USE ONLY</b>
CNPC ID#: _____

**HOUSING INSPECTION CHECKLIST**

Date:	Job Order #
IowaWORKS Center:	Inspector:
Employer:	

Address:
Lot/Apt #:
City:
County:

Current or Anticipated Number of Occupants \_\_\_\_\_

Number & Capacity of Inspected Sleeping Units: Number \_\_\_\_\_ Capacity \_\_\_\_\_

Last Period of License Validity by Department of Health \_\_\_\_\_

**NOTE:** Housing built **prior** to April 3, 1980 should be inspected in accordance with **ETA** regulations.  
Housing built **after** April 3, 1980 should be inspected in accordance with **OSHA** regulations.

Checklist Entry Key

- Enter √ if housing meets prescribed standards.
- Enter X if housing does not meet prescribed standards.
- Enter 0 if not applicable at time of inspection.

**NOTE:** On all items to which the Secretary's regulations or other state or local regulations apply, the more stringent provision is to prevail.

Name of the Employer/Agent Present at Inspection:	
Employer/Agent Signature:	
Inspected by:	Date:

## HOUSING INSPECTION CHECKLIST

### 654.404 Housing Site

\_\_\_\_\_ a. Located where sewage disposal neither creates nor is likely to create a nuisance or a hazard to health.

\_\_\_\_\_ b. Well drained and free from depressions?

\_\_\_\_\_ c. Offensive odors, flies, noise, traffic, or similar hazards?

\_\_\_\_\_ d. Debris, noxious plants, weeds, etc.

\_\_\_\_\_ e. Space for recreation?

### 654.405 Water Supply

\_\_\_\_\_ a. Adequate and meets \_\_\_\_\_ approval?

\_\_\_\_\_ b. Cold water tap 100 feet from each individual living unit?

\_\_\_\_\_ 1. Adequate drainage facilities at water tap for overflow?

\_\_\_\_\_ c. No common drinking cup?

### 654.406 Excreta and Liquid Waste Disposal

\_\_\_\_\_ a. Effective facilities provided?

\_\_\_\_\_ b. Liquid waste not discharged or allowed to accumulate on ground surface?

\_\_\_\_\_ c. Facilities connected to public sewers when available?

\_\_\_\_\_ 1. Other systems approved by appropriate agency.

654.407 Housing

\_\_\_\_\_ a. Structurally sound?

\_\_\_\_\_ in sanitary condition?

\_\_\_\_\_ provides protection against elements?

\_\_\_\_\_ in good repairs

\_\_\_\_\_ b. Floors of rigid materials, smooth finished, readily cleanable and located so as to prevent entrance surface water?  
(OSHA REGULATION—one foot above ground level)

\_\_\_\_\_ c. Sufficient floor and air space for current or anticipated occupants?

**NOTE:** No floor space shall be counted toward minimum requirements where ceiling height is less than five (5) feet.

**MINIMUM STANDARDS**

1. Sleeping only, singles beds (family, dormitory) - 50 sq. ft. per occupant

2. Sleeping only, double bunks (dormitory) – 40 sq. ft. per occupant.

3. Cooking, eating, sleeping—60 sq. ft. per occupant.

(OSHA REGULATIONS—100 sq. ft.)

\_\_\_\_\_ d. Room or rigid partitioned sleep area for husband and wife with children over 6 years of age to provide reasonable privacy?

\_\_\_\_\_ e. Separate sleep accommodations for each sex or family?

\_\_\_\_\_ f. Adequate and separate arrangements for hanging clothes and storing personal effects?

\_\_\_\_\_ g. Half floor area have minimum ceiling height of 7 feet?

\_\_\_\_\_ h. One window or skylight, each habitable room and opening directly to out of doors?

\_\_\_\_\_ 1. Minimum total window or skylight area, including windows in doors, equal to 10% of usable floor area?

\_\_\_\_\_ 2. 45% minimum window area openable or adequate skylight provided except where mechanical or other ventilating devices are provided which are comparably adequate?

654.408 Screening

- \_\_\_\_\_ a. All outside openings screened minimum 16 mesh?
- \_\_\_\_\_ b. Screen doors tight fitting?
- \_\_\_\_\_ c. Equipped with self-closing devices?

654.409 Heating

- \_\_\_\_\_ a. Living quarters and service rooms provided will adequate, properly installed, operable heating equipment, if needed.
- \_\_\_\_\_ b. Stoves properly installed, vented and fireproof material under stoves on combustible flooring—no portable heaters other than electrical?
- \_\_\_\_\_ c. Walls, ceiling within 18" of solid or liquid fuel stove or stove pipe constructed of fireproof material?
- \_\_\_\_\_ d. Vented metal collar around stove pipe or vents?
- \_\_\_\_\_ e. With automatic controls, proper type automatic fuel cutoffs?
- \_\_\_\_\_ f. Capable of providing 68° minimum?

654.410 Electricity service available

- \_\_\_\_\_ a. Electric service available?
- \_\_\_\_\_ b. Adequate light fixtures each habitable room
  - \_\_\_\_\_ common use of laundry
  - \_\_\_\_\_ shower
  - \_\_\_\_\_ privies
  - \_\_\_\_\_ hallways
  - \_\_\_\_\_ stairways
- \_\_\_\_\_ c. Wall outlet each living room?
- \_\_\_\_\_ d. Adequate yard area lighting?

\_\_\_\_\_e. Wiring and lighting in safe conditions?

654.411 Toilets

\_\_\_\_\_a. Constructed, located and maintained to prevent nuisance or health hazard?

\_\_\_\_\_b. One water closet or privy seat for each 15 occupants?

\_\_\_\_\_c. Urinals, if any, properly constructed?

\_\_\_\_\_d. Separate toilet accommodations for men and women except in family units?

\_\_\_\_\_ 1. Solid wall, floor to roof or ceiling between men and women's toilets in the same building.

\_\_\_\_\_ 2. Properly marked ("men" and "women" English and native language)?

\_\_\_\_\_e. Toilet tissue and holder furnished?

\_\_\_\_\_f. Toilets and privies well lighted, ventilated, clean and sanitary?

\_\_\_\_\_g. Within 200 feet of each living unit?

\_\_\_\_\_h. Privies not closer than 50 feet from any living unit or food facilities.

\_\_\_\_\_i. Privy structures and pits fly tight?

\_\_\_\_\_j. Meets applicable provisions of pertinent State or local law?

645.412 Bathing, laundry, and hand washing

\_\_\_\_\_a. Supplied with hot and cold water under pressure?

\_\_\_\_\_ 1. Facilities clean and sanitary?

\_\_\_\_\_ 2. Facilities with 200' of each living unit?

\_\_\_\_\_b. One shower head per 15 persons  
(OSHA REGULATIONS—10 persons)

\_\_\_\_\_ 1. Adequate dry dressing space in common use facilities?

\_\_\_\_\_ 2. Shower heads spaced 3 feet apart with minimum of 9 square feet floor space?

- \_\_\_\_\_ 3. Shower floor and drains properly constructed?
- \_\_\_\_\_ 4. Separate shower facilities for each sex (except in family units)?
- \_\_\_\_\_ 5. Solid non-absorbent wall from floor to ceiling or roof between shower facilities for both sexes in the same building?
- \_\_\_\_\_ 6. Showers properly marked (English and native language (“Men” and “women”)?
- \_\_\_\_\_ c. Lavatories or equivalent units in ration of 1 to 15 provided?
- \_\_\_\_\_ d. Laundry facilities supplied with hot and cold water under pressure?
  - 1. Sufficient laundry facilities provided?

NOTE: One tub or tray per 25 persons; or mechanical washers one per 50 persons (with a minimum of one tub per 100 persons).  
 (OSHA REGULATIONS—One tub or tray per 30 persons)

654.413 Cooking and Eating Facilities

- \_\_\_\_\_ a. Space provided and equipped for cooking and eating in individual units?
  - \_\_\_\_\_ 1. Cooking stove or hotplate with minimum of two burners provided?
  - \_\_\_\_\_ 2. Adequate food storage shelves?
  - \_\_\_\_\_ 3. Counter for food preparation?
  - \_\_\_\_\_ 4. Mechanical refrigerator provided (maximum temperature 45°)?
  - \_\_\_\_\_ 5. A table and chairs or equivalent seating and eating arrangements, all commensurate with the capacity of the unit?
  - \_\_\_\_\_ 6. Adequate light and ventilation?
- \_\_\_\_\_ b. Space provided for cooking and eating in a common facility?
  - \_\_\_\_\_ 1. Separate from sleeping facilities?
  - \_\_\_\_\_ 2. Provided with one stove or 2 burner hotplate for each 10 person or two families?
  - \_\_\_\_\_ 3. Adequate food storage shelves?

- \_\_\_\_\_ 4. Counter for food preparation?
- \_\_\_\_\_ 5. Mechanical refrigerator (maximum temperature 45°)?
- \_\_\_\_\_ 6. Adequate tables and chairs?
- \_\_\_\_\_ 7. Adequate sinks with hot and cold water under pressure?
- \_\_\_\_\_ 8. Adequate light and ventilation?
- \_\_\_\_\_ 9. Floors of non-absorbent and easily cleaned materials
- \_\_\_\_\_ c. Central mess facilities in proper proportion to capacity of housing?
  - \_\_\_\_\_ 1. Separate from sleeping quarters?
  - \_\_\_\_\_ 2. Facilities equipped and operated in accordance with State codes?
- \_\_\_\_\_ d. Wall surface adjacent to food preparation and cooking areas of non-absorbent, easily cleaned, fire resistant material?

654.414 Garbage and other refuse

- \_\_\_\_\_ a. Fly-tight 20 gallon containers provided adjacent to each to each housing unit.
  - \_\_\_\_\_ 1. Containers provided in minimum ratio of 1 to 15 persons.
- \_\_\_\_\_ b. Garbage collection at least twice a week?
- \_\_\_\_\_ c. Disposal of refuse in accordance with State code?

654.415 Insect and rodent control

- \_\_\_\_\_ a. Housing and facilities shall be free of insects, rodents and other vermin?

654.416 Sleeping Facilities

- \_\_\_\_\_ a. Comfortable beds, cots or bunks with clean mattresses and mattress covers, when required, provided for each person. (Bunks, cots, beds to be placed no closer together than 30" side to side or end to end)?
  - Beds must be a minimum of twelve (12) inches off the floor.

\_\_\_\_\_ b. Any bedding provided by the housing operator must be clean and sanitary.

\_\_\_\_\_ c. No triple deck bunks?

\_\_\_\_\_ d. Proper clearance above and below sleeping facilities?

\_\_\_\_\_ e. Double beds occupied by 2 people in family combinations only

NOTE: Clear space above top of the lower mattress of a double deck bunk and the bottom of upper bunk: Bed. 27", State 30" minimum; distance from top of the upper mattress to ceiling: 36" minimum.

#### 654.417 Fire, Safety and First Aid

\_\_\_\_\_ a. Habitable buildings constructed and maintained in conformity to State of local safety laws (note: especially wiring, ventilation, required insulation, exits, etc.)?

\_\_\_\_\_ b. Two means of escape provided: openable space of 24"X 24" may be provided as second means of escape from family housing or units with less than 10 persons of 1- story construction?

\_\_\_\_\_ c. For 10 or more persons two doors remotely separated provided as means of egress from sleeping quarters, central dining facility and common assembly rooms?

\_\_\_\_\_ d. Second story sleeping quarters and common assembly room have stairway and a permanently affixed exterior ladder or a second stairway?

\_\_\_\_\_ e. Sleeping and common assembly rooms located above second story comply with State and local fire and building code?

\_\_\_\_\_ f. Fire extinguishing provided in readily accessible place?

\_\_\_\_\_ 1. Fire extinguishing equipment provides protection equal to 2 ½ gallon stored pressure or 5 – gallon pump – type water extinguisher?

\_\_\_\_\_ 2. Fire extinguishing equipment provided within 100 feet from each housing unit?

\_\_\_\_\_ g. First aid facilities equivalent to 16 – unit first aid kit provided in ratio of 1 to 50 persons?

\_\_\_\_\_ 1. Readily accessible for use at all times?

\_\_\_\_\_h. No flammable or volatile liquids stored adjacent to rooms used for living purposes?

\_\_\_\_\_i. Agricultural pesticides and toxic chemicals not stored in housing area?

\_\_\_\_\_j. Adequate number of smoke detectors in housing.

\_\_\_\_\_ a. Proper location of smoke detectors

\_\_\_\_\_ b. All smoke detectors functioning

NOTE: Installation

Smoke detectors shall be located as follows:

a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

b. In each room used for sleeping purposes.

c. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

For more information please visit:

<http://www.dps.state.ia.us/fm/smokedetector.shtml>



**Appendix II  
FORM ES-338-R2**

Form Approved  
Budget Bureau No. 44-R1358

U.S. Department of Labor, Employment and Training Administration U.S. TRAINING AND EMPLOYMENT SERVICE  <b>EMPLOYER FURNISHED HOUSING AND FACILITIES</b> <i>(See Instructions on Reverse)</i>					1. EMPLOYER'S NAME AND ADDRESS						
2. HOUSING LOCATION					3. HOUSING DESCRIPTION						
4. SLEEP ROOMS <i>(No. &amp; Measure)</i>	a. Dormitory Type				b. Family Type				<b>ES USE ONLY</b>		
	1	2	3	4	1	2	3	4	5. CAPACITY <i>(Adults)</i>		
Length									6. REGULATIONS COMPLIANCE <i>("X" proper box)</i>		
Width									Water	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Ceiling Height									Electricity	<input type="checkbox"/>	<input type="checkbox"/>
Square Feet									Site	<input type="checkbox"/>	<input type="checkbox"/>
No. of Rooms									Screening	<input type="checkbox"/>	<input type="checkbox"/>
No. of Beds, Single									Heating	<input type="checkbox"/>	<input type="checkbox"/>
No. of Beds or Bunks, Double											
7. FACILITIES <i>(Number of each)</i>											
Flush Toilets	Privy	Urinals	Lav. or Washbasins	Showerheads							
Bathtubs	Movable Bathtubs	Laundry machines	Fixed laundry tubs	Movable laundry tubs							
Cook Stoves	Refrigerators	Garbage containers	First-aid Kits	Fire Extinguishers <i>(No. &amp; type)</i>							
8. COMMENTS											
9. EMPLOYER'S CERTIFICATION: I CERTIFY THAT I have reviewed the housing regulations of the U.S. Department of Labor, U.S. Training and Employment Service, and that the housing described herein <input checked="" type="checkbox"/> meets <input type="checkbox"/> does not meet such standards. I hereby authorize representatives of the State Employment Service office and/or Employment and Training Administration regional office to inspect the above housing at any reasonable time.											
Employer's Signature					Typed Name and Title			Date			
10. HOUSING INSPECTED BY:											
Signature of Authorized Official					Typed Name and Title			Date			
11. APPROVAL: Housing approved for occupancy by workers recruited interstate.											
Signature of Authorized Official					Typed Name and Title			Date			

## INSTRUCTIONS FOR COMPLETING FORM ES-338

- ITEM 1: Self-Explanatory.
- ITEM 2: Give directions for locating housing.
- ITEM 3: Describe housing and identify each separate unit. Barrack type of dormitory, apartments, single family dwellings, brick, etc.
- ITEM 4: List measurements of each type of dormitory room; and measurements and items of units of same size and show number.
- ITEM 5: Capacity will be determined by local office of State ES agency.
- ITEM 6: Check "Yes" or "No" for each item after consideration of Regulation requirements.
- ITEM 7: Record number of each type of unit.
- ITEM 8: Deficiencies, planned improvements, and other information about the housing should be recorded here.
- ITEM 9: When the form is completed by an employer, this item must also be completed and signed by the employer or his agent.
- ITEM 10: To be completed by the official conducting the housing inspection.
- ITEM 11: To be executed by the Employment Service official approving use of the housing by interstate workers.

**Appendix III  
Photo Checklist**

Photo Checklist for H-2A Pre-Occupancy Housing Inspections  
(Minimum required Photos)

Employer name:

Address:

- Outside Housing / Site – showing evidence of safe and healthy grounds, along with adequate yard lighting.
- House Number – showing evidence of clear and visible address for location/identification purposes, especially in case of an emergency.
- All Sides of House (External) – showing proof of structural soundness, sanitary condition, good repair and protection against elements, screening on windows and tight-fitting screen door(s).
- Running Water – showing safe, healthy and adequate hot – cold water supply under pressure hot to cold.
- Drinking Cups – proof of no common drinking cup.
- Under Kitchen Sink – insect, rodent or other vermin feces evidence or lack thereof, along with proof of no leaks and absence of toxic chemicals other than household cleaners
- Sink Running Water – showing that a clean sink and faucet provide accessibility of hot and cold water under pressure.
- Full Kitchen – showing proof of stove, refrigerator, counter for food prep, space itself, easily cleanable and nonabsorbent floor, table and adequate seating, along with adequate number of drinking cups, food storage and lighting.
- DOL Required Posters Photo – *MSPA, All-in-One* and *H-2A*
- Full Bathroom – shows proof of effective facilities provided and lighting.
- Toilet Flushing – showing clean/sanitary facility, along with effective flushing of waste.
- Toilet Paper – showing proof of furnished toilet paper.
- Shower Running – showing clean/sanitary facility, along with effective running hot to cold water under pressure, along with proper draining and adequate lighting.
- Full Bedroom – showing proof of all minimum standards for sleeping, storage and dressing quarters, along with space, lighting, ventilation and properly functioning smoke detector (refer to each CFR subsection).
- Source of Heat – properly installed and operable furnace and/or thermostat showing capability to provide minimum of 68 degrees.

- Hallway – proof of lighting and properly functioning smoke detector.
- Stairway – proof of lighting and working smoke detector; handrail, if applicable.
- Laundry Room, if applicable – showing sufficient facility with hot and cold water under pressure and lighting.
- Living Room – showing proof of wall outlet and not serving dual purpose of sleeping and/or cooking facility.
- Fire Extinguisher – evidence that equipment is in readily accessible place and of proper type.
- First Aid – evidence of a readily accessible unit/kit provided in ratio of 1 to 50 people.
- Second Story, if applicable – showing proof of second stairway or a permanently affixed exterior ladder, along with properly functioning smoke detector.
- Basement and any other story, if applicable – showing proof of safe and healthy space, along with properly working smoke detector.
- Exits – showing proper means of escape and/or egress (refer to 20 CFR 654.417)
- All photos uploaded to MSFW SharePoint

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Signature of inspector