



Issue Date: September 2, 2022

**MERCED CITY AND COUNTY CONTINUUM OF CARE (CoC)
REQUEST FOR PROPOSAL
NUMBER 2022-003**

**TITLE: 2022 HUD Consolidated CoC Supplemental Notice of Funding
Opportunity (NOFO) to Address Unsheltered and Rural Homelessness**

Please carefully read and follow the instructions.

Please direct all questions to:
Collaborative Applicant/Administrative Entity
2115 West Wardrobe Avenue
Merced, California 95340
Attn. Maribel Baron
Phone: 209-385-3000 ext. 5210
Fax: 209-724-4088
E-mail: Collabapp@countyofmerced.com

PLEASE SUBMIT RESPONSE BY: 4:00 P.M., on September 16, 2022

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DEFINITIONS

Bidder – An eligible applicant submitting a bid response for the purpose of obtaining a CoC recommendation for funding.

Continuum of Care (CoC)- The Merced City and County Continuum of Care.

Collaborative Applicant/Administrative Entity – The eligible applicant designated by the Continuum of Care (CoC) to collect and submit the CoC Registration, CoC Consolidated Application (which includes the CoC Application and CoC Priority Listing) and apply for CoC planning funds on behalf of the CoC during the CoC Program Competition.

Coordinated Entry System- A centralized or coordinated process developed pursuant to Section 578.7 of Title 24 of the Code of Federal Regulations, as the Section read on January 10, 2019, designed to coordinate homelessness program participant intake, assessment, and provision of referrals.

Evaluation Committee - A committee established to review and evaluate responses to determine the selected recommendations. The committee includes representatives of the department seeking the goods or services.

Homeless Management Information System (HMIS) – The information system designated by a continuum of care to comply with federal reporting requirements as defined in Section 578.3 of Title 24 of Code of Federal Regulations.

Homelessness- The meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that Section read on January 10, 2019.

Housing First – A homeless assistance approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness, and serving as a platform from which they can pursue personal goals and improve their quality of life per the meaning in Section 8255 of the Welfare and Institutions Code.

Match Requirements- Applicants must match all grant funds, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources per 24 CFR §578.73.

System for Award Management (SAM)- The Federal Repository into which an entity must provide information required for the conduct of business as a recipient. Registration with SAM is required for submission of applications via esnaps. You can access the website at <https://www.sam.gov/SAM/>. There is no cost to use SAM.

Threshold Requirements- Eligibility requirement that must be met for an application to be reviewed.

Unique Entity Identifier (UEI)- The identifier assigned by SAM to uniquely identify business entities.

SECTION 1

INTRODUCTION

1.1 INTENT OF THE REQUEST FOR PROPOSAL

The Merced CoC is accepting proposals for qualified agencies to apply for the 2022 United States (U.S.) Department of Housing and Urban Development (HUD) CoC Supplemental funds to address unsheltered and rural homelessness.

The goal is to target efforts to reduce unsheltered homelessness and homelessness particularly in communities with high levels of unsheltered individuals. The CoC program, in accordance with Code of Federal Regulations (CFR) Title 24 Part 578, is designed to promote a community-wide commitment to the goal of ending homelessness and to provide funding for efforts by eligible participants to quickly rehouse homeless individuals, families, persons fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking, and youth, while minimizing the trauma and dislocation caused by homelessness; to promote access to and effective utilization of mainstream programs by homeless individuals and families; and to optimize self-sufficiency among those experiencing homelessness.

1.2 BACKGROUND INFORMATION

The CoC program is authorized by Subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act, (42 United States Code 11381–11389) (the Act), and the CoC Program rule found in 24 CFR Part 578 (the Rule). The funds used for this HUD opportunity are from recaptured unspent CoC program funds that are available for reuse.

Approximately \$322,000,000 is available from HUD. Of this amount, \$267,500,000 is available for projects as part of the Unsheltered Homelessness Set Aside. The funds for the Unsheltered Homelessness Set Aside were set aside pursuant to Section 231 of the FY 2020 Appropriations Act and may be used by HUD, with Congressional approval, for the CoC competition. HUD may add to the total amount with available funds under and pursuant to Section 231. Of the amount available for projects as part of the Unsheltered Homelessness Set Aside, Merced CoC has a maximum grant amount of \$1,196,413. (Prior version \$1,196,415)

24 CFR 578.9 requires CoCs to design, operate, and follow a collaborative process for the development of an application in response to a NOFO issued by HUD. As part of this collaborative process, Merced CoC is required to hold a local competition to determine which projects will be included in the consolidated application, along with their relative priority. The results of the local competition,

overseen and approved by the CoC Board, dictate which projects will move forward in the funding process.

Ending homelessness cannot be achieved by homeless service organizations alone. It requires coordination with a variety of other stakeholders, including affordable housing developers, mainstream service providers, the business community, victim service providers, political leaders, and healthcare providers. This NOFO supports and encourages CoCs to invite a variety of stakeholders to develop and implement a CoC Plan to Serve Individuals and Families Experiencing Homelessness with Severe Service Needs.

1.3 ELIGIBLE APPLICANTS

1. Nonprofit Organizations;
2. States;
3. Local Governments; and
4. Instrumentalities of State and Local Governments.
 - a. Faith Based Organizations- Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at 24 CFR 5.109, and subject to the protections and requirements of 42 U.S.C. 2000bb et seq. HUD will not, in the selection of recipients, discriminate against an organization on the basis of the organization's religious character, affiliation, or exercise

All eligible applicants must demonstrate that the following requirements are met:

1. **System of Award Management (SAM) Registration Requirement.** Applicants must be registered with <https://www.sam.gov/SAM> before submitting their response. In addition, Applicants must maintain an active SAM registration with current information while they have an active Federal award or an application or plan under consideration by HUD. Evidence of the SAM registration should be provided with the response.
2. **UEI Number Requirement.** Applicants must provide a valid UEI number in the application which is registered and active within SAM.
3. **Faith Based Organizations**
 - a. Faith-based organizations may apply for this proposal on the same basis as any other organization, as set forth at 24 CFR 5.109, and subject to the protections and requirements of 42 U.S.C. 2000bb et seq., HUD will not, in the selection of recipients, discriminate against an organization on the basis of the organization's religious character, affiliation, or exercise.
 - b. A faith-based organization that participates in this program will retain its independence and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law, including the Free Speech and Free Exercise Clauses of the Constitution, 42 U.S.C. 2000bb et

seq., 42 U.S.C. 238n, 42 U.S.C. 18113, 42 U.S.C. 2000e-1(a) and 2000e-2(e), 42 U.S.C. 12113(d), and the Weldon Amendment, among others. Religious accommodations may also be sought under many of these religious freedom and conscience protection laws, particularly under the Religious Freedom Restoration Act.

c. A faith-based organization may not use direct financial assistance from HUD to support or engage in any explicitly religious activities except where consistent with the Establishment Clause and any other applicable requirements. Such an organization also may not, in providing services funded by HUD, discriminate against a beneficiary or prospective program beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

For-profit entities and individuals are ineligible applicants. Public housing agencies, as such term is defined in 24 CFR 5.100, are eligible without limitation or exclusion.

1.4 ELIGIBLE ACTIVITIES AND GRANT TERMS

Unsheltered homelessness is continuing to rise in many areas of the country and recent analysis of homelessness data shows that people experiencing unsheltered homelessness report significantly greater health challenges and experiences of trauma and violence than their sheltered peers. These challenges often begin before they lose their housing. These funds support this highly vulnerable population by supporting CoCs in their efforts to identify people living in unsheltered situations, including encampments, and connects them with health and housing resources. It also supports CoCs in their efforts to enhance their Homeless Management Information System (HMIS) to collect more comprehensive data on people experiencing unsheltered homelessness in their geographic area.

The following types of new project applications will be eligible for completion and submission under these funds (this RFP does not support renewal project applications):

1. Permanent Housing projects including:
 - a. permanent supportive housing (PH-PSH) projects;
 - b. permanent housing-rapid rehousing (PH-RRH) projects;
2. Supportive Service Only projects;
3. Joint TH and PH-RRH projects;
4. HMIS; and
5. CoC Planning.

The initial grant term for all projects will be 3 years. Grant terms may be extended, consistent with 2 CFR 200.308 and 2 CFR 200.309.

1.5 PROJECT PARTICIPANTS

Projects must have the following eligibility criteria for program participants:

1. Meet the criteria of paragraph (1) of the definition of homeless at 24 CFR 578.3, except that persons coming from transitional housing must have originally come from places not meant for human habitation, emergency shelters, safe havens, or institutions where they resided for 90 days or less and originally came from places not meant for human habitation, safe havens, or emergency shelters; or
2. Meet the criteria of paragraph (4) of the definition of homeless at 24 CFR 578.3.

When a program participant is enrolled in a Joint TH and PH-RRH component project, the project must be able to provide both components, including the units supported by the transitional housing component and the tenant-based rental assistance and services provided through the PH-RRH component, to all participants. A program participant may choose to receive only the transitional housing unit, or the assistance provided through the PH-RRH component, but the project must make both types of assistance available.

1.6 REQUIREMENTS

1.6.1 Bidder Narrative Responses Required

1. Provide a brief narrative describing your organizations proposed project for which you are seeking funding. A project narrative shall include the following:
 1. Permanent housing services that can include permanent supportive housing and permanent housing-rapid rehousing project in Merced city and county;
 2. Joint transitional housing and permanent housing-rapid rehousing services in Merced city and county;
 3. Supportive Services Only services in Merced city and county;
 4. Usage of HMIS for all client data entry and case management notations, including services provided and financial assistance provided;
 5. Usage of the Coordinated Entry System and participation in CES meetings;
 6. Demonstrated collaboration with existing providers of homeless projects;
 7. Measurable outcomes;
 8. Staffing to services ratios; and
 9. Advancing racial equity strategies.
2. Provide a proposed project budget that will support the proposed project and services that your organization program would be providing.

3. Does your organization currently participate in the Merced CoC HMIS? Describe your involvement in detail or explain why your organization does not participate in HMIS.
4. Does your organization participate in the Merced CoC CES? Describe your involvement in detail or explain why your organization does not participate in CES.
5. Does your organization have strategies to support and serve underserved communities (Black, Indigenous, and other people of color as well as individuals who identify as LGBTQ+ and individuals with disabilities) in their geographic area, identify barriers that led to any disparities in communities being served, and take steps to eliminate these barriers.
6. Does your organization use a Housing First approach? Describe how your project will help individuals and families move quickly into permanent housing.
7. Bidders must meet all statutory and regulatory requirements in the Act and 24 CFR Part 578.
8. Bidders must match application amount, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources per 24 CFR 578.73.

1.6.2 Required Documentation

Project Application(s), including for each project application:

1. Project application, charts, narratives, and attachments;
2. SF-424 Application for Federal Assistance;
3. SF-424 Supplement, Survey on Ensuring Equal Opportunities for Application required for nonprofit applicants only where completion and submission of this survey is voluntary;
4. Documentation of Applicant and Sub-Recipient Eligibility. All project applicants must attach documentation of eligibility and the sub-recipient eligibility must also be attached to the project application;
5. Applicant Certifications;
6. Form HUD-2880, Applicant/Recipient Disclosure/Update Report. Must be attached for each project and must include the correct amount of HUD assistance requested;

7. SF-LLL, Disclosure of Lobbying Activities (if applicable);
8. Form HUD-50070, Certification for Drug-Free Workplace;
9. Disclosure of Lobbying Activities; and
10. Applicant Code of Conduct. All project applicants must ensure their organization has a Code of Conduct that complies with the requirements of 2 CFR part 200 and is on file with HUD at https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/conduct. If the organization's Code of Conduct does not appear on HUD's website, the project applicant must attach its Code of Conduct that includes all required information to its Project Applicant Profile in e-snaps.

1.7 THRESHOLD REQUIREMENTS

1. Project applicants and potential sub-recipients must meet the eligibility requirements of the CoC Program as described in 24 CFR part 578 and provide evidence of eligibility required in the application (e.g., nonprofit documentation).
2. Project applicants and sub-recipients must demonstrate the financial and management capacity and experience to carry out the project as detailed in the project application and the capacity to administer federal funds. Demonstrating capacity may include a description of the applicant/sub-recipient experience with similar projects and with successful administration of CoC program funds and other federal funds.
3. Project applicants must submit the required certifications.
 - a. Standard Form 424 (SF424)- Application for Federal Assistance
 - b. All required forms in the SF-424 Family of forms
 - c. Standard Form-424 Supplemental- Survey on Ensuring Equal Opportunity Opportunities
 - d. Standard Form-424B (SF424B)- Assurances of Non Construction Programs
 - e. Standard Form-424D (SF424D)- Assurances for Construction Programs
4. The population to be served must meet program eligibility requirements as described in Section 1.5 Program Participants.
5. Project applicants must agree to participate in a local HMIS system. However, in accordance with Section 407 of the Act, any victim service provider that is a recipient or sub-recipient must not disclose, for purposes of HMIS, any personally identifying information about any client. Victim service providers must use a comparable database that meets the needs of the local HMIS.

6. Project applicants and potential sub-recipients must have satisfactory capacity, drawdowns, and performance for existing grant(s) that are funded under the CoC Program, as evidenced by timely reimbursement of sub-recipients, regular drawdowns, and timely resolution of any monitoring findings.
7. Project applicants must demonstrate they will be able to meet all timeliness standards per 24 CFR 578.85.
8. Project applicants must submit a Certification of Consistency (HUD 2991) by the jurisdiction in which the proposed project(s) will be located that the applicant's project application for funding is consistent with the jurisdiction's HUD-approved consolidated plan. The certification must be made in accordance with the provisions of the consolidated plan regulations at 24 CFR part 91, subpart F.
9. Notwithstanding 24 CFR 578.31 and 24 CFR 578.99(a) of the Rule, and in accordance with Section 100261(3) of MAP-21 (Pub. L. 112-141, 126 Stat. 405), activities under this NOFO are subject to environmental review by a responsible entity under HUD regulations at 24 CFR part 58.

1.8 SPECIFIC COMPLIANCE

Bidder(s) agrees to comply with all State and Federal laws, rules, and regulations that pertain to health and safety, labor, fair employment practices, equal opportunity, Code of Federal regulations (CFR), and all other matters applicable to the HUD and the CoC Program 24 CFR 578.

Selected bidder(s) will be required to submit related racial and ethnic data metric of the homeless population and those served by the CoC service area from HMIS on a quarterly reporting to HUD.

Selected bidder(s) who receive funding for purchase, lease, supportive services, operation, or work that may disturb painted surfaces, of pre-1978 housing must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure and Lead Safe Housing (24 CFR part 35)), and the Environmental Protection Agency's (EPA) lead-based paint rules (e.g., Repair, Renovations and Painting; Pre-Renovation Education and Certification; and Lead Training and Certification (40 CFR part 745)). When providing education or counseling on buying or renting housing that may include pre-1978 housing, bidder(s) must inform clients of their rights under the Lead Disclosure Rule (24 CFR part 35, subpart A,), and, if the focus of the education or counseling is on rental or purchase of HUD-assisted pre-1978 housing, the Lead Safe Housing Rule (subpart B, R, and, as applicable, F-M).

Bidders should read the 2022 HUD Consolidated CoC Supplemental NOFO (link below) in its entirety in conjunction with the Rule to ensure a comprehensive

understanding of and compliance with all CoC Program requirements. The NOFO frequently references citations from the Rule. HUD will conduct a threshold review of ranked projects submitted by CoCs by the application deadline and may issue more than one funding announcement. HUD will score the NOFO CoC Application portion in accordance with the criteria set forth in the NOFO.

https://www.hud.gov/program_offices/comm_planning/coc/specialCoCNOFO/supplemental

SECTION 2

RESPONSE FORMAT AND CONTENT

2.1 GENERAL INFORMATION

This section describes the required response format and content. The response should contain the requested information organized by the prescribed section and subsection numbers and titles. Any information provided beyond that required in the response should be contained in a section entitled "Optional Exhibits and Attachments".

Each Bidder shall submit a complete response, providing all information requested and a complete description of the functional operation of the program/project proposed. Failure to follow the prescribed format may result in rejection of your response.

Responses must be complete in all aspects. A response may be rejected if it is conditional or incomplete, or if it contains any alteration of form or other irregularities of any kind. A response may be rejected if any such defect or irregularity constitutes a material deviation from the proposal requirements. The response must contain all costs required by the proposal.

2.2 RESPONSE FORMAT

The responses must be developed in the order in which they appear in the proposal. Responses that do not conform to this format may not be considered for evaluation. All responses must be submitted in the name of the legal entity or authorized agency. Responses must be signed in ink by the officer or officers legally authorized to bind the company, partnership, or corporation.

2.2.1 Signature Page

Bidder must complete and return the enclosed Signature Page (**Attachment A**, "Signature Page"). The Signature Page must be signed in blue ink by the officer or officers legally authorized to bind the company, partnership, or corporation.

2.2.2 Table of Contents

The Table of Contents must be a comprehensive listing of the contents included in your response. This section must include a clear definition of the material, exhibits and supplemental information identified by sequential page numbers and by section reference numbers.

2.2.3 Bidder's Qualifications

Bidder shall provide a concise statement demonstrating that the Bidder's company has the qualifications, experience, and capability to perform the requirements of this proposal. The following sections must be included:

a) History

Provide a brief history of your company, including the number of years in business. State whether your organization is an individual proprietorship, partnership, corporation, or private nonprofit organization, and the date your company was formed or incorporated. Provide a statement as to any judgment, litigations, licensing violations, or other violations, outstanding or resolved, against your company in the past five (5) years.

b) Background and Experience

A summary of relevant background information describing your company's experience of major accomplishments and/or activities like the requirements set forth under this proposal, which demonstrates your company's ability to provide the service described in your response.

c) References

Provide a list of at least three (3) customer references. Include the firm's name; the name, title, and telephone number of a contact person; the dollar amount of the Agreement; and the dates that these services were completed. Bidder may provide sample material of your company's work to substantiate your previous experience.

d) Staff Assignment

A brief description of the experience and qualifications of the proposed key staff members assigned to this program/project and what percentage of their time will be devoted to the program/project. Show their function, level of education, degree and license, if appropriate, and a detailed resume for each person. Additionally, the Bidder must specify where the staff will be located and identify the program/project manager.

2.2.4 Cost Proposal

It is essential that all responding Bidders include and clearly detail all costs, payment schedules, categorization of line items, and/or other related costs associated with your response. All responses must have a narrative providing a thorough and clear explanation of your costs.

As part of the submission, Bidder will need to include a budget that specifies operational costs. If budget spans over a year of operations, the budget needs to be represented for each individual year of project.

SECTION 3

SELECTION PROCESS, EVALUATION CRITERIA, AND BASIS OF SUBMISSION

3.1 SELECTION PROCESS

Project applications must be submitted to the CoC by the deadline listed on the cover page of this RFP to be included on the CoC Priority Listing. CoCs must review and either accept and rank on the CoC Priority Listing, reject, or reduce project applications submitted to them. All project applications approved by the CoC must be listed on the CoC Priority Listing in rank order. Collaborative Applicant is responsible for submitting the CoC Consolidated Application in e-snaps on behalf of the CoC.

The Collaborative Applicant will provide all application responses to the CoC Board for their review and determination of approval, rejection, and reduction in application amount. CoC Priority Listing will be determined from this review and approval process. The Collaborative Applicant will submit the CoC Consolidated Application to HUD by October 20, 2022.

The CoC Consolidated Application is made up of the following three parts:

1. CoC Application. The Collaborative Applicant must provide information about the CoC planning body, governance structure, overall performance, the strategic planning process, and their CoCs Plan for Serving Individuals and Families Experiencing Homelessness with Severe Service Needs. This part of the application is scored and will determine the order in which CoCs are funded.
2. Project Application. All project applications, including CoC planning costs, must be completed by project applicants and must describe the population(s) and subpopulation(s) they will serve, the type of housing and services that will be provided, and the budget activities that are being requested. Collaborative Applicants applying for CoC planning must provide a description of the activities that will be carried out with CoC Program grant funds.
3. CoC Priority Listing. The CoC Priority Listing includes where each project application must be reviewed, approved, and have a unique rank number or be rejected.

The project listing forms rank all project applications in order of priority and identify any project applications rejected by the CoC. In this competition, HUD is also requiring Collaborative Applicants to rank CoC planning with unique rank numbers.

The Collaborative Applicant cannot accurately complete the project listing forms of the CoC Priority Listing until all project applications have been submitted to the CoC.

3.2 EVALUATION PROCESS

The RFP will be evaluated based on the following criteria:

Scoring Criteria	Points Allotted
Threshold Requirements	Pass/Fail
Project Activities/Participants	25
Narrative	35
Required Documents	15
Budget	25
Total Points	100

3.3 NOTICES OF INTENT

All bidders will be notified of the 2022 CoC HUD program priority listing. CoCs are required to notify, in writing outside of e-snaps, all project applicants who submitted their project applications to the CoC by the CoC-established deadline whether their project application(s) will be accepted and ranked on the CoC Priority Listing, rejected, or reduced by the CoC no later than 15 days before the Supplemental RFP application submission deadline.

3.4 DEBRIEFING

A debriefing shall be held before the recommendation of the bidder(s) upon timely request of an unsuccessful Bidder for the purpose of receiving information concerning the evaluation of the Bidder's response. The request must be in writing, dated, signed either by the Bidder or a legally authorized individual on behalf of the Bidder and be received by the Collaborative Applicant/Administrative Entity located at 2115 West Wardrobe Avenue, Merced, California 95340 no later than August 24, 2022. Each requesting Bidder will be allotted a maximum of one hour for any debriefing conference. The information provided by the Collaborative Applicant/Administrative Entity will be based on the Evaluation Committee determinations of your company's submitted response as it relates to the evaluation criteria as stated herein above. The debriefing may be held, in the discretion of the Collaborative Applicant/Administrative Entity, by telephone conference call. The debriefing is not the forum to challenge the proposal's specifications, requirements, or the selection criteria. The debriefing procedure provided herein to all requesting and unsuccessful Bidders to the CoC's Request for Proposal is the exclusive and sole remedy and means of receiving information regarding the respective Bidder's evaluation and preliminarily challenging the ESG recommendations.

3.5 PROTEST

Should an unsuccessful Bidder request a debriefing, and believes its response to

be the most responsive to the CoC's proposal and that the CoC has incorrectly selected another Bidder for recommendation, the appealing Bidder may submit a protest of the selection as described below:

All protests must be made in writing, dated, signed by the Bidder or an individual authorized to sign Agreements on behalf of the protesting Bidder, and contain a statement of the reason(s) for protest; citing the law(s), rule(s) and regulation(s) or procedure(s) on which the protest is based. The protesting Bidder must have gone through the debriefing process described above and must provide facts and evidence to support the protest.

Protest(s) to CoC's Intent to Recommend must be sent either by U.S. mail, postage prepaid, or by personal delivery to:

Collaborative Applicant/Administrative Entity
2115 West Wardrobe Avenue
Merced, California 95340

All protests in relationship to the CoC's intended recommendation decision must be received by the CoC or Collaborative Applicant/Administrative Entity no later than three (3) working days following the CoC's notification to all Bidders of proposal rankings.

3.6 PROTEST PROCEDURES

A Bidder protesting the results of any of the processes described herein must follow the procedures set forth herein. By submitting a "Letter of Intent to Protest", the Bidder has agreed that the protest procedures herein shall precede any action in a judicial or quasi-judicial tribunal regarding this proposal. Protests that do not follow these procedures shall not be considered. The protest procedures constitute the sole administrative remedy available to the Bidder under this procurement. Upon exhaustion of this remedy no additional recourse is available with the CoC.

Upon receipt of the formal protest, the CoC will attempt to resolve the protest. If the protest has not been resolved, the Bidder will have an opportunity to address the CoC Board stating their concerns. The decision of the CoC Board constitutes the last step of the Bidder's administrative remedy.

A protest shall be disallowed when, in the judgment of the Collaborative Applicant/Administrative Entity or the CoC Board, it has been submitted: (1) as a delay tactic; (2) for the purpose of posturing the protester advantageously for future procurement; (3) in a form that deviates from the one prescribed; (4) without adequate factual basis or merit; or (5) in an untimely manner.

In the event that a protesting Bidder does not appear at the protest hearing as scheduled by CoC, the protest will be disallowed.

SECTION 4

TERMS AND CONDITIONS

4.1 REQUEST FOR PROPOSAL CLOSING DATE

All responses and accompanying documentation submitted by the Bidders will become the property of the CoC. Responses shall be based on the material contained in the proposal. Bidders are instructed to disregard any prospective oral representations they may have received prior to the solicitation of the proposal.

Cost for developing and preparing the response is solely the responsibility of the Bidder whether any recommendation results from this solicitation. Further, the cost of developing and preparing responses to the proposal will not be allowed as direct or indirect charges under this funding.

No alteration in any of the terms, conditions, delivery, price, quality, quantities, or specifications will be effective without prior written consent of the CoC.

THE CoC RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL RESPONSES OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO PRICE ALONE. THE COC SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE BIDDER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.

4.2 ANNOUNCEMENT OF RESPONSES

All responses received by the published date and time for submission will be made public at our CoC Website. All information contained in the responses shall be confidential to avoid disclosure of contents prejudicial to competing Bidders during the evaluation process. No award decision, pricing, or exchange of views will be discussed at time of opening.

4.3 INTERPRETATION, CORRECTIONS AND AMENDMENTS

The Bidder must carefully examine the specifications, terms and conditions provided in the Request for Proposal and become fully informed as to the requirements set forth therein. If anyone planning to submit a response discovers any ambiguity, conflict, discrepancy, omission or error in the proposal, has any questions in relationship to the "REQUIREMENTS", or any other related matters, Bidder shall immediately submit their request for clarification or modification of the

RFP no later than the Question-and-Answer deadline. No further requests for clarification or objections to the proposal will be accepted or considered after this date. Any change in the proposal will be made only by written amendment, issued by the Collaborative Applicant/Administrative Entity to each vendor on the Bidders list as well as posted on the CoC website, and shall be incorporated in the proposal. **Any oral communication by the CoC or Collaborative Applicant/Administrative Entity's designated contact person or any other CoC staff member concerning this proposal is not binding on the CoC and shall in no way modify this proposal or the obligations of the CoC or any Bidders.**

4.4 FALSE OR MISLEADING STATEMENTS

Responses which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of the CoC, such information was intended to mislead the CoC in its evaluation of the response, and the attribute, condition or capability is a requirement of this proposal, it will be the basis for rejection of the response.

4.5 EXPLANATION OF USE OF SUB-RECIPIENTS

Any Bidder using a Sub-recipients(s) must clearly explain the use of the Sub-recipients(s) and list the name(s) of the Sub-recipients(s) providing work under this proposal. The selected Bidder will be fully responsible for all work performed under this proposal and will be considered as the Prime Contractor. Any Sub-recipient, or other legal arrangements made by the Bidder are the sole responsibility of the Bidder. Any Agreement that is entered into between the selected Bidder and the Sub-recipient(s) shall contain provisions for federal and state access to the books, documents, records, and inspection of work. Bidder awarded any recommendation because of this proposal shall obtain CoC written approval of sub-recipients identified in Bidder submittal prior to execution of Agreement.

4.6 CONFIDENTIALITY

The contents of all responses, correspondence, agenda, memoranda, or any other medium which discloses any aspect of a Bidder's response shall be held in the strictest confidence until after negotiations for the contract are negotiated. If you contend that any submission contains trade secrets or proprietary data, please be advised that the CoC cannot and does not give any assurances or guarantees that such information will not be released under the California Public Records Act. The Bidder should clearly mark any of the information within their response that is proprietary. However, the CoC will be guided by the California Public Records Act and the definition of Trade Secrets under California Civil Code Section 3426.1. In no case will the following be considered proprietary: a) the final cost of the bid or response; b) information that is not clearly marked as proprietary in nature; c)

information that, though marked as proprietary, is not actually proprietary d) information that is otherwise generally available as information or technology within the subject trade, industry or profession.

BIDDER SHALL NOT DESIGNATE THE ENTIRE RESPONSE AS PROPRIETARY. SUCH ATTEMPTED DESIGNATION WILL NOT BE HONORED.

Submission of a response by a Bidder shall constitute an agreement to the provision for public announcement. The CoC shall not be obligated to release information contained in any Bidder's RFP submittal that has been marked as proprietary, without the written consent of the Bidder. Any agency requesting such information so marked as proprietary must obtain such written authorization directly from Bidder and forwarded to CA/AE.

CoC shall not be required to contact any Bidder for information on behalf of any requesting agency. CoC shall have the sole discretion and exclusive authority to determine if any other party has properly obtained the right to have access to proprietary information.

4.7 DETERMINATION OF BIDDER'S RESPONSIBILITY

Responsible Bidder

A responsible Bidder is a Bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, financial strength, and satisfactory experience. It is the CoC's policy to conduct business only with responsible Bidders.

Non-responsible Bidder

The CoC may declare a Bidder to be non-responsible for purposes of this proposal for a variety of reasons, some of which are listed below. This is not an exclusive list - reasons may include the following but are limited to the below:

- Committed any act or omission which negatively reflects on the Bidder's quality, fitness, financial strength, or capacity to perform any recommendation that may be derived from this proposal with the CoC or an Agreement with any other public entity, or engaged in a pattern or practice which negatively reflects on same; or
- Committed an act or omission which indicates a lack of business integrity or business honesty; or
- Made or submitted a false claim against the CoC or any other public entity; or
- Submitted false, incomplete or unresponsive statements or omitted requested documentation in connection with this proposal.

4.8 PUBLIC DISCLOSURE

All public records of the CoC are made available for disclosure except the contents of the responses received in response to an RFP, which are not open for public review until the contract between the recommended Bidder and the CoC is agendized with the CoC Board. In the event that an unsuccessful Bidder files an official request to view the recommended Bidder's response, the CoC must comply with appropriate public disclosure procedures. However, if information specifically designated in the response as proprietary is requested CoC may attempt to notify Bidder in the event the Bidder wish to pursue protections against disclosure, at its own cost, so that the information will not be made available.

Pursuant to the California Public Records Act, Government Code Sections 6250 *et seq.*, any contract that eventually arises from this Request for Proposal is a public record, in its entirety. Also, all information submitted in response to this Request for Proposals is itself a public record **without exception**, and will be disclosed upon request, but only after negotiations are complete. Submission of any materials in response to this Request for Proposal constitutes your consent to release materials, and a waiver of any claim that the information is protected from disclosure. Furthermore, by submitting materials, you agree to indemnify and hold harmless CoC for release of such information.

4.9 QUALIFICATIONS OF BIDDER

The CoC may make such investigation as it deems necessary to determine the ability of the Bidder to provide the services requested herein, and the Bidder shall furnish to the CoC all information and data for this purpose as the CoC may request. The CoC reserves the right to reject any response should the evidence submitted by, or investigation of, the Bidder fails to satisfy the CoC that such Bidder is properly qualified to carry out the obligations of the proposal and to complete the requirements contemplated therein.

4.10 DISQUALIFICATION OF BIDDER

A Bidder may be disqualified, and the response rejected, in addition to any other cause for rejection as set forth elsewhere in this proposal, for any of, but not limited to, one of the following reasons:

- Proof of collusion among Bidders, in which case all responses involved in the collusive action will be rejected and any participant to such collusion will be barred from future bidding until reinstated as a qualified Bidder.
- Lack of responsibility or cooperation as shown by past work or services provided to the CoC or others.
- Being in arrears on existing Agreements with the CoC or having defaulted on previous Agreements.
- Incomplete information or missing documents as required in the proposal.

4.11 INTEGRITY OF EXPENDITURE

The Bidder assures that every reasonable course of action will be taken to maintain the integrity of expenditure of public funds and to avoid any favoritism, questionable, or improper conduct.

4.12 GRATUITIES

Neither the Bidder nor any person, firm, or corporation employed by the Bidder shall give, directly or indirectly, to any employee or agent of the CoC, any gift, money, or anything of value, or any promise, obligation, or Agreement for future reward or compensation, neither during the proposal process nor during the performance of any Agreement period resulting from this proposal.

4.13 CONFLICT OF INTEREST

The Bidder covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this proposal. Bidder shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or sub-Contractor(s), and the CA/AE. Bidder shall make all reasonable efforts to ensure that no CoC officer or employee, whose position in the CoC enables them to influence any award of this proposal or any competing offer, shall have any direct or indirect financial interest resulting from any recommendation that may be derived from this proposal or shall have any relationship to the Bidder or officer or employee of the Bidder, nor that any such person will be employed by Bidder in the performance of any recommendation that may be derived from this proposal without immediate divulgence or such fact to the CA/AE.

4.14 DRUG FREE WORK PLACE

The recommended Bidder must certify that it will provide a drug-free workplace as set forth by the Federal Drug-Free Workplace Act of 1988.

4.15 PREVAILING WAGE RATES

The Bidder shall meet any requirements set forth in the Standard Agreement that will be issued by the state to the Bidder for any site preparation activities. The Bidder will be required to certify adherence to the requirements of all state and federal laws relating to the payment of prevailing wage rates for work performance under public works project laws, specifically, as covered by the federal Davis-Bacon Act and California Labor Code 1720 et seq. A copy of this wage scale may also be obtained from the office of the Director of Industrial relations, State of California, or <http://www.dir.ca.gov/DLSR/PWD/mer.xls>

4.16 COMPLIANCE WITH APPLICABLE LAWS

The successful Bidder shall otherwise perform all obligations under the ESG program in compliance with all applicable federal, state, and local laws, rules, regulations, and policies.

4.17 LEGAL CONSIDERATIONS

Any Bidder, by submission of a response to this proposal, and any subsequent recommendation that may be derived from this proposal, shall be deemed, and have agreed to be bound by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance.

Notwithstanding any other provisions of this proposal, any dispute concerning any question of fact or law arising under this proposal, or arbitration arising out of any recommendation that may be awarded as a result of this proposal, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

ATTACHMENT A

SIGNATURE PAGE

(BIDDER TO COMPLETE AND PLACE IN FRONT OF RESPONSE)

ORGANIZATION NAME _____

ADDRESS _____
(P.O. Box/Street) (City) (State) (Zip)

CONTACT PERSON: _____

TITLE: _____

TELEPHONE NO. _____ FAX NO. _____

E-MAIL ADDRESS _____

The undersigned hereby certifies that he/she is a duly authorized official of their organization and has the authority to sign on behalf of the organization and assures that all statements made in the response are true and accurate to the best of their ability, agrees to furnish the item(s) and/or service(s) stipulated in this Request for Proposal at the price stated herein, and will comply with all terms and conditions set forth, unless otherwise stipulated.

Authorized Representative - Name Title

Signature (in blue ink) Date

Business License No.: (Merced City) _____

(Merced County) _____

Professional License No.: _____

Taxpayer Identification No.: _____