

**STANDARD TERMS & CONDITIONS**  
(Invitation to Bid)

**RFP #: HSFACIL-9002019**

West Harlem  
Community  
Organization, Inc.  
Head Start Facilities  
121 West 128<sup>th</sup> Street  
New York, NY 10027



Phone: (212) 665-  
7586  
Fax: 212-665-7586

1.0 APPLICABILITY: The terms and conditions set forth in this document apply to Requests for Bids (RFB), Bids and all other transactions whereby West Harlem Community Organization, Inc. (WHCO) acquires goods or services, or both.

2.0 ENTIRE AGREEMENT: These Standard Terms and Conditions shall apply to any contract, awarded as a result of this request. Special requirements of a resulting contract may also apply. Further, the written contract with referenced parts and attachments shall constitute the entire agreement, and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by WHCO.

3.0 DEFINITIONS: As used herein, "vendor" includes a provider of goods or services, or both, who is responding to an RFB, and "bid" includes a response to the RFB.

4.0 SPECIFICATIONS: The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability or performance level, or any combination thereof, desired. When alternates are proposed, manufacturer, stock number, and such other information necessary to establish equivalency must identify them. WHCO shall be the sole judge of equivalency. Vendors are cautioned to avoid proposing alternates to the specifications, which may result in rejection of their bid.

5.0 DEVIATIONS AND EXCEPTIONS: Deviations and exceptions from terms, conditions, or specifications shall be described fully, on the vendor's letterhead, signed, and attached to the bid. In the absence of such statement, the bid shall be accepted as in strict compliance with all terms, conditions and specifications and the vendors shall be held liable.

6.0 QUALITY: Unless otherwise indicated in the request, all material shall be first quality. Items that are used, demonstrators, obsolete, seconds,

remanufactured, or which have been discontinued are unacceptable without prior written approval by WHCO.

7.0 QUANTITIES: The quantities shown on this request are based on estimated needs. WHCO reserves the right to increase or decrease quantities to meet actual needs.

8.0 DELIVERY: Deliveries shall be FOB destination freight prepaid and included unless otherwise specified. Shipments sent C.O.D. or freight collect will not be accepted.

9.0 PRICING: Unit prices shown on the bid shall be the price per unit of sale, (i.e., gal, ca, box, ea, etc.), as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price; the unit price shall govern in the bid evaluation and contract administration.

9.1 Prices established in continuing agreements and term contracts may be lowered due to market conditions, but prices shall not be subject to increase for the term specified in the award. The conditions under which price increases may be granted shall be expressed in bid documents.

9.2 Submission of a bid constitutes bidder's certification that no financial or personal relationship exists between the bidder, any WHCO Board member or employee except as specially set forth in writing attached to and made a part of the bid. The successful bidder shall disclose any such relationship, which develops during the term of the contract.

10.0 ACCEPTANCE-REJECTION: WHCO reserves the right to accept or reject any or all bids, to waive any technicality in any bid submitted and to accept any part of a bid as deemed to be in the best's interests of the Agency. Submission of a proposal or a bid constitutes the making of an offer to contract for the Agency. Prices must be held through December 31, 2019.

11.0 METHOD OF AWARD: Award shall be made to the lowest responsible, responsive vendor conforming to specifications, terms and conditions, or to the most

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advantageous bid submitted to WHCO on a quality versus price basis. Quantities involved, time of delivery, purpose for which required, competency of vendor, the ability to render satisfactory service, and past performance, will be considered in determining responsibility.

12.0 ORDERING/ACCEPTANCE: A formal contract containing all provisions of the contract will be signed by both parties.

13.0 PAYMENT TERMS AND INVOICING: WHCO normally will pay properly submitted vendor invoices within thirty (30) days of receipt of goods or services, or combination of both, which have been delivered, installed (if required), and accepted as specified.

14.0 NO WAIVER OF DEFAULT: In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by WHCO of any breach of the covenants of the Agreement or a waiver of any default of the successful vendor, and the making of any such payment or acceptance of any such service or products by WHCO while any such default or breach shall exist it shall in no way impair or prejudice the right of WHCO with respect to recovery of damages or other remedy as a result of such breach or default.

15.0 TAXES: WHCO and its departments are exempt from payment of all federal tax and New York State and local taxes on its purchases.

15.1 Contractors performing construction activities are required to pay state use tax on the cost of materials.

16.0 GUARANTEED DELIVERY: Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include administrative costs.

17.0 APPLICABLE LAW: The contractor shall at all times comply with and observe all federal and state

laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct.

18.0 ASSIGNMENT: No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of WHCO.

19.0 NONDISCRIMINATION/AFFIRMATIVE ACTION: During the term of this agreement of the contractor agrees not to discriminate against any person, whether an applicant or recipient of services, and employee or applicant for employment, on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, veterans of the Vietnam era, disabled veterans, or any other protected status. The contractor shall provide a harassment free work environment. These provisions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, including apprenticeships, rates of pay or other forms of compensation.

20.0 PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT: The contractor guarantees goods sold to WHCO were manufactured or produced in accordance with applicable federal labor laws and the sale or use of the articles described herein will not infringe any patent, copyright or trademark. The contractor covenants that it will be its own expense defend every suit which shall be brought against WHCO (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent, copyright or trademark by reason of the sale or use of such articles, and agrees that it will pay all costs, damages and profits recoverable in any such suit.

21.0 SAFETY REQUIREMENTS: All materials, equipment, and supplies provided to WHCO must fully comply with all safety requirements as set forth by the New York State Department of Commerce and all applicable OSHA Standards.

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22.0 MATERIAL SAFETY DATA SHEET: If any item(s) on an order(s) resulting from this award(s) uses or contains a hazardous chemical, provide one (1) copy of the Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

23.0 WARRANTY: Unless specifically expressed otherwise in writing, goods and equipment purchased as a result of this request shall be warranted against defects by the vendor for five (5) years from date of completion. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.

24.0 INSURANCE RESPONSIBILITY: The successful vendor who is providing services to WHCO shall:

24.1 Maintain worker's compensation insurance as required by New York Statutes, for all employees engaged in the work. The successful vendor shall furnish evidence of adequate worker's compensation insurance.

24.2 Indemnify, hold harmless and defend WHCO, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which WHCO, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of the successful vendor furnishing the services or goods required to be provided under the contract with WHCO, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts omissions of WHCO, its agencies, boards, commissions, officers, employees or representatives. The obligations of the successful vendor under this paragraph shall survive the expiration or termination of any contract resulting from the successful vendor's bid.

24.3 At all times during the term of this Agreement, keep in full force and effect comprehensive general liability and auto liability insurance (as well as professional malpractice or errors and omissions

coverage, if the services being provided are professional services) issued by a company or companies authorized to business in the State of New York and licensed by the New York State Insurance Department, with liability coverage provided for therein the amount of at least \$1,000,000 CSL (Combined Single Limits), \$2,000,000 aggregate. Coverage afforded shall apply as primary. WHCO shall be given ten (10) days advance notice of cancellation or non-renewal. Upon execution of this Agreement, the successful vendor shall furnish WHCO with a certificate of insurance listing WHCO as an additional insured and, upon request, certified copies of the required insurance policies. If the successful vendor's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this agreement, the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date, the successful vendor shall maintain coverage for the duration of this agreement and for two years following the completion of this agreement. The successful vendor shall furnish WHCO, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that the successful vendor shall furnish WHCO with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, with the successful vendor or WHCO may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by the successful vendor. In the event any action, suit or other proceeding is brought against WHCO upon any matter herein indemnified against, WHCO shall give reasonable notice thereof to the successful vendor and shall cooperate with the successful vendor's attorneys in the defense of the action, suit or other proceeding.

25.0 In the case of any sublet of work under this Agreement, the successful vendor shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of the successful vendor.

26.0 CANCELLATION: WHCO reserves the right to terminate any agreement due to non-appropriation of funds or failure of performance by the vendor. This

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paragraph shall not relieve WHCO of its responsibility to pay for services or goods provided or furnished to WHCO prior to the effective date of termination.

and the Contract Work Hours and Safety Standards Act. For contracts in excess of \$100,000 additional certifications will be required.

27.0 Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which vendor believes qualifies as a trade secret, must be identified on a designation of Confidential and Proprietary Information form. In any event, bid prices will not be held confidential after award or contract.

28.0 RECYCLED MATERIALS: WHCO is required to purchase products incorporating recycled materials whenever technically and economically feasible. Vendors are encouraged to bid products with recycled content which meet specifications.

29.0 PROMOTIONAL ADVERTISING: Reference to or use of WHCO, any of its departments, programs or sub-units, or any Agency officer(s), Board of Directors, or Board member(s), employee or program participant(s) for commercial promotion is prohibited.

30.0 RECORDKEEPING & RECORD RETENTION – COST REIMBURSEMENT CONTRACTS: The successful bidder on a contract where payment to the contractor is based on the contractor’s costs shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. The contracting agency shall have the right to audit, review, examine, copy and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the contractor. The contractor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

30.1 VENDOR CERTIFICATION: The vendor additionally certifies that they are in compliance with the Equal Employment Opportunity Act. For contracts in excess of \$2,000 for construction or repair, the vendor also certifies that they are in compliance with The Davis-Bacon Act, The Copeland “Anti-Kickback” Act,

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