

Request for Proposals: ARPA and Faircloth Affordable Housing Development

On behalf of Washington County, the Washington County Community Development Agency (“Agency”) is requesting development proposals for the ARPA Affordable Housing initiative. This Request for Proposals (“RFP”) is for eligible multifamily rental developments located in Washington County, MN. The RFP has an available allocation of \$7,500,000 in American Rescue Plan Act (“ARPA”) funding. Additionally, the RFP has an available allocation of 58 Project-Based Voucher units through the Agency’s Public Housing Faircloth unit authority (“Faircloth Units”). Respondents request ARPA funding and/or Faircloth Units for a specific housing development that meets the requirements of the RFP, ARPA funding, and the Department of Housing and Urban Development’s Faircloth to RAD process. Agency staff will review, score, and recommend proposals for selection to the Agency Board and Washington County.

This RFP document provides general information and instructions regarding the application and selection process. ARPA funds and Faircloth Units are subject to specific regulations and requirements that are not outlined in detail or modified by this document. For additional information about ARPA funding, please visit: [Coronavirus State and Local Fiscal Recovery Funds, US Department of the Treasury](#). For additional information about Faircloth Units, please visit: [RAD, Department of Housing and Urban Development](#) and [Faircloth to RAD Conversion Document, HUD](#). Proposals must meet the requirements of all funding sources, rental subsidies, and service funding proposed, including those resources allocated outside this RFP.

Any resulting contracts or closing documents necessary for funding the proposed project will incorporate applicable requirements under state and federal law or regulation. Selected proposals will result in a recorded land use declaration with ARPA affordability restrictions for 30 years. The affordability requirements of Faircloth Units remain in perpetuity per HUD guidelines. The Required Federal Clauses contained in Exhibit A of this RFP shall be included in all contracts or subcontracts funded through this RFP.

- I. **Eligibility Criteria:** proposals not meeting these criteria will not be considered.
 - a. Permanent multifamily rental housing units located in Washington County, MN with rents affordable at 30%-60% of Area Median Income (“AMI”);
 - b. Have current award of Low-Income Housing Tax Credits through the 2022 application round and/or tax-exempt bonds through Minnesota Management and Budget **OR** plan to apply for tax-exempt bonds through Minnesota Management and Budget’s July 2023 Conduit Revenue Bond process;
 - c. Must be able to demonstrate ability to close on funding by December 31, 2023;
 - d. All required proposal materials must be submitted by the submission deadline as listed below.

- II. **Required Proposal Materials:** the Agency's [2023-2024 Procedural Manual](#) chapter 7.A provides general guidance on the submission items listed below.
- a. Multifamily Workbook including all required information in Excel format; Note: Federal procurement requirements apply for applications requesting Faircloth Units, including Section 3 and Davis-Bacon prevailing wages; associated costs must be reflected on the Workbook. Faircloth Units also require HUD environmental review and HUD Subsidy Layering Review. Faircloth Units requested should be listed separately on the Multifamily Workbook with gross rents reflecting \$520 for 1-BR, \$645 for 2-BR, and \$906 for 3-BR units.
 - b. Status of Municipal Approvals;
 - c. All Proposed Sources of Funds, Including Federal, Local, and Philanthropic Contributions;
 - d. Narratives, as applicable;
 - e. Project Schedule;
 - f. Photographs;
 - g. Planning and Development;
 - h. Qualification Forms as applicable;
 - i. List of 10 most recent completed affordable housing developments, if applicable, specifying all sources used and which Federal requirements applied, such as Section 3, Davis Bacon, HUD environmental review, HUD Subsidy Layering Analysis, or others;
 - j. Appraisal;
 - k. Evidence of Site Control;
 - l. Legal Description of Land;
 - m. Location Map;
 - n. Utility Allowance Schedule;
 - o. Current Rent Roll, if applicable; and
 - p. Signed Certification Forms (Appendices A-C).

NOTE: Additional documentation may be required by Agency staff in the application review process.

- III. **Optional Proposal Materials:** the Agency's [2023-2024 Procedural Manual](#) chapter 7.A provides general guidance on the submission items listed below.
- a. Evidence of Housing for People with Disabilities, if applicable; Note: Faircloth Units are Project-Based Voucher units and cannot be layered with a duplicative rental housing subsidy, such as Housing Support or other rental subsidies. .
 - b. Evidence of Ending Homelessness, if applicable; Note: Faircloth Units are Project-Based Voucher units and cannot be layered with a duplicative rental housing subsidy, such as Housing Support or other rental subsidies.
 - c. Market Study- will be required for all selected proposals but may be provided with proposal submission, if available;
 - d. Preliminary Architectural/Construction Requirements for New Construction, if applicable and available;
 - e. Scope of Work, if available for proposals that entail preservation or acquisition and rehabilitation of existing buildings;
 - f. Relocation Plan, as applicable for preservation and acquisition-rehabilitation projects;
 - g. Letter of support from local municipality;

- h. Letter of compliance from lender of Federal funds, confirming the applicant's experience and compliance with Federal requirements such as Section 3, Davis Bacon wages, or other requirements.
- i. Nonprofit Proof of Status, if applicable;

IV. Scoring Criteria and Application Review

Proposals will be reviewed based on the following criteria and scoring:

- A. Eligibility- proposals must meet the Eligibility Criteria outlined above.
- B. Selection Priorities- proposals will be scored according to the priorities listed below.
 - a. Number of Faircloth Units Requested, with priority for more units requested (up to 30 points)
 - b. Level of Affordability, with priority for more units at deeper affordability (up to 30 points)
 - c. Financial Feasibility (up to 30 points)
 - d. Demonstrated Organizational Capacity, including capacity of development team to complete the development as proposed, demonstrated experience of the proposed development team with applicable Federal funding requirements, organizational commitment to long-term affordability (up to 30 points)
 - e. Status of Municipal Approvals and Development Process (up to 20 points)
- C. Application Review- proposals will be reviewed by a review panel. In addition to the scoring priorities above, proposals will be reviewed for the elements listed below, which will be incorporated into the total score for the proposal.
 - a. Whether the proposed development costs are reasonable and/or justifiable.
 - b. Whether the proposed rent levels are reasonable and/or justifiable for the proposed location.
 - c. For any proposed supportive housing units, whether the service model, staffing, and secured funding are adequate to address the needs of the population to be served.
 - d. For projects that are proposed to be developed in tandem with another project (e.g. with shared underground parking or as part of a larger development proposal), the proposal must demonstrate that each individual project can be financed and developed independently. The Multifamily Workbook must reflect all costs associated with each project.
 - e. Whether the development proposal demonstrates it can meet the layered requirements of the proposed funding sources, rental subsidies as applicable, and service funding as applicable.

V. Reserved Rights

The Agency expressly reserves the right to withdraw or amend this RFP at any time, to reject any or all submitted proposals, and to waive any informalities or irregularities in the submitted proposals, as may be deemed in the best interest of the Agency and Washington County. Acceptance of any proposal submitted pursuant to this RFP shall not constitute any implied intent to enter into a contract. Contracts awarded under this RFP shall be at the sole discretion of the Agency and Washington County.

VI. Data Practices

Information supplied by each respondent to the Agency is subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 (the "Act"). Responses submitted become a matter of public record, as set forth therein. Such information shall become public unless it falls within one of the exceptions of the Act. If a respondent believes any non-public information will be supplied, the respondent shall take reasonable steps to identify and provide reasonable justification to the Agency regarding such data, if any, which falls within the exceptions of the Act. However, the respondent agrees as a condition of submitting a proposal that the Agency will not be held liable or accountable for any loss or damage which may result from a breach of confidentiality as may be related to the proposal submitted. The Agency will not consider any cost information and references submitted by a respondent to be non-public, confidential, or trade secret information. Simply stating that the document is confidential or making a blanket claim of confidentiality without proper supporting justification is also not a valid reason to declare a proposal as confidential.

VII. Submission Requirements

- A. This RFP is open for submissions from March 1st, 2023, through March 24th, 2023. **By 4:30pm on March 23rd, 2023, email a request for a submission link to karlys@washingtontyccda.org.** A submission folder will be created for each individual proposal to upload applicable materials. ***Respondents are encouraged to request the submission link and provide application materials ahead of the deadline in the event of any technical concerns that arise.*** Application materials submitted after March 24th, 2023, will not be accepted unless requested by Agency staff as part of the application review and scoring process.
- B. Applicants are responsible to know all requirements that are needed to submit a complete and accurate application based on the specific housing proposal.
- C. Agency staff reserves the right to seek follow-up information if needed after an application is received.

VIII. Signatures

All proposal materials must be signed wherever required and applicable. Submission of proposal materials confirms the information contained in those materials is true and accurate to the best knowledge of the development team identified in the Multifamily Workbook.

Questions: Please contact Karly Schoeman at karlys@washingtontyccda.org.

EXHIBIT A

Required Federal Contract Clauses

The Washington County ARPA Grant program involves the use of federal funds obtained by the County through the American Rescue Plan Act of 2021 (“American Rescue Plan”, “ARPA”). Therefore, the Applicant (hereinafter “CDA”) and any lower tier contractors must agree to comply with the American Rescue Plan Act, as amended, as well as the rules of any regulatory body under the American Rescue Plan Act.

Subject to the below Federal Provisions for ARPA, are attached and incorporated into, and shall thereby apply to the CDA receiving funding, as well as all lower tier contracts with any contractors or subcontractors who may be retained to work on the project. **The CDA is responsible to include the below federal provisions in any of its contracts or subcontracts involving the federal ARPA grant funds.**

A. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

- (1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the CDA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with ARPA federal funding. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

B. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that ARPA financial assistance will be used to fund all or a portion of the above-referenced contract. By accepting this contract, the Contractor agrees to comply with all applicable Federal law, regulations, executive orders, U.S. Treasury policies, procedures, and directives.

C. LOBBYING

The Lobbying requirements mandate the maximum flow down at every contracting tier, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5).

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification. If applicable, contractors must sign and submit to the non-federal entity the certification attached hereto as Appendix A. *(To be submitted with any bid or offer exceeding \$100,000)*

D. CLEAN AIR ACT AND WATER POLLUTION CONTROL ACT

Clean Air - The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office.

Contractors must include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided to County under ARPA.

Federal Water Pollution Control Act

The Contractor agree to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

The Contractor agree to report each violation to the (name of the applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

E. SUSPENSION AND DEBARMENT

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the CDA is required to verify that none of the CDA's/contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while an offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- (3) This certification is a material representation of fact relied upon by contractor. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County and/or Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

F. ACCESS TO RECORDS.

The following access to records requirements apply to this contract:

- (1) The Contractor agree to provide Washington County, the designated state/federal Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agree to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agree to provide the County, State, or Federal Administrator or his/her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the County of Washington and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Federal Administrator or the Comptroller General of the United States.

G. MODIFICATIONS / CHANGES

Any material alterations, modifications or variations of the terms of this Agreement shall be valid and enforceable only when they have been reduced to writing as an amendment and signed by the parties.

H. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledge that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

I. CIVIL RIGHTS REQUIREMENTS

The following requirements apply to all underlying contracts. The Contractor also agree to include these requirements in each subcontract financed in whole or in part with Federal assistance, modified only if necessary to identify the affected parties.

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agree that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

- **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agree to refrain from discrimination against present and prospective employees for reason of age.
- **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agree that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

J. BREACHES AND DISPUTE RESOLUTION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the CDA. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the CDA. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the CDA's governing body shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the CDA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the CDA and the Contractor arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within the State of Minnesota, County of Washington.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the CDA, County, its Officers, agents or contractors shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

K. TERMINATION

Termination for Convenience. The CDA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to County to be paid the Contractor. If the Contractor has any property in its possession belonging to the County, the Contractor will account for the same, and dispose of it in the manner County directs.

Termination for Cause. If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the CDA may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted. If it is later determined by the CDA that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the CDA, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure. The CDA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor a reasonable period of time not to exceed ten (10) days, in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to the CDA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from the CDA setting forth the nature of said breach or default, the CDA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the CDA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

L. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Contract Work Hours and Safety Standards Act. The CDA shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or § 4.6 of part 4 of this title. As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards.

- (1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized

representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- (4) *Subcontracts*. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

M. EQUAL EMPLOYMENT OPPORTUNITY

The following equal employment opportunity requirements apply to the underlying contract:

- 1) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
- 2) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
- 3) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

N. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. (§ 200.216)

(a) Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph

(1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

APPENDIX A

Byrd Anti-Lobbying Certification

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

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

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any Agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995).

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The undersigned Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official: _____

Name of Contractor's Authorized Official: _____

Title of Contractor's Authorized Official: _____

Date _____

APPENDIX B

CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The undersigned Contractor the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment against them for commission of fraud or 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 Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (2) or this certification; and
- 4) Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

If the primary participant (applicant for an FTA grant or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation of this certification.

The undersigned Contractor certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq. are applicable thereto.

Date: _____

Signature and Title of Authorized Official: _____

APPENDIX C

CERTIFICATION OF NON-CONFLICT OF INTEREST

The Undersigned, on behalf of the CDA, certifies, to the best of his or her knowledge and belief, that:

- (1) No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1332, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor Name: _____

Signature: _____

Title: _____

Date: _____