



# Request for Proposals Indirect Cost Rate Plan

Issuance Date: January 23, 2023

Proposals must be submitted no later than 5:00 pm (ET) February 13, 2023

Submit to:

Ohio Housing Finance Agency  
Janice Wildermuth, Purchasing Supervisor  
[FinRFP@ohiohome.org](mailto:FinRFP@ohiohome.org)  
57 E. Main Street | Columbus, OH 43215

# Contents

1. Guidelines for Request for Proposals .....	4
1.1. Introduction.....	4
1.2. Schedule of Events .....	4
1.3. Submission of Written Questions .....	6
1.4. Verbal Communication Regarding RFP Prohibited.....	6
1.5. Submission of Proposals.....	6
1.6. Right to Request Additional Information .....	6
1.7. Right to Reject Proposals and Cancel RFP .....	6
1.8. Evaluation and Award of Contract .....	6
1.9. Agreement for Services.....	7
2. Scope of Services .....	7
2.1. Services Required.....	7
3. Required Information to be Provided in Response to Proposal.....	8
3.1. Description of Firm .....	8
3.2. Qualifications Relative to Scope of Services .....	8
3.3. Institutional References.....	8
3.4. Staff References .....	8
3.5. Cost Proposal.....	8
3.6. Litigation, Administrative Proceedings, Investigations .....	8
3.7. Other Qualifications.....	9
4. Evaluation Process .....	9
4.1. Minimum Evaluation Requirements .....	9
4.2. Evaluation Criteria.....	9
5. Proposal Format and Submission .....	9
5.1. Proposal Organization and Format .....	9
5.2. Submitting the Proposal .....	9

Exhibit A – Letter of Transmittal

Exhibit B – Cost Proposal

Exhibit C – Sample Agreement for Services

# 1. Guidelines for Request for Proposals

## 1.1. Introduction

The Ohio Housing Finance Agency (OHFA) is seeking proposals from qualified firms to develop an indirect cost rate plan for OHFA, including all supporting documentation (to be provided to OHFA), and to submit and defend the plan before OHFA's cognizant federal agency.

In addition, the selected firm will be available for questions regarding interpretation, reconciliation, and implementation of the developed plan. The selected firm may also be asked to meet with OHFA staff to provide an in-depth explanation of all plan components, basis of cost allocation, and indirect cost rates for various OHFA programs. The contract term covers the four year period March 28, 2023, through March 28, 2027.

The firm must have a minimum of 10 years' experience advising state and local government entities and a demonstrated record of successfully negotiating indirect cost rate plans with federal cognizant agencies.

### Background

OHFA is a related organization to the State of Ohio but not part of the primary government. It has one main office in Columbus, Ohio with programs to assist in the financing, production, development and preservation of safe, decent and affordable housing for occupancy by low- and moderate-income persons. It has two program offices which manage and administer the agency's programs. These programs are financed by federal and non-federal funds.

Support offices (e.g., Communications & Marketing, Finance, Human Resources, Information Technology, Legal, etc.) provide the general and administrative services required to operate the agency. Operating costs of the agency are primarily payroll and employee benefit costs. Other operating costs include building lease costs, building security, equipment maintenance, and supplies etc.). The typical operating expenditures in any fiscal year are approximately \$18,000,000.

## 1.2. Schedule of Events

OHFA has established the following schedule for selection of the respondent:

Event	Date
RFP issuance date	January 23, 2023, 5:00 pm (ET)
Written questions from applicants	January 30, 2023, 5:00 pm (ET)
Responses to applicant questions	February 6, 2023, 5:00 pm (ET)
Proposals due	February 13, 2023, 5:00 pm (ET)
Respondent Interviews, if required	March 1 - 2, 2023
Confirmed selection by OHFA Board	March 15, 2023
Agreement for Services executed	March 22, 2023

Start date of Services	March 27, 2023
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The above schedule is subject to change upon notification on OHFA's [website](#).

### 1.3. Submission of Written Questions

It is the policy of OHFA to accept questions and inquiries from all potential applicants. All questions and inquiries shall be in writing; no verbal questions will be answered. Potential applicants may submit their questions and inquiries via e-mail to:

Ohio Housing Finance Agency  
E-mail: [FinRFP@ohiohome.org](mailto:FinRFP@ohiohome.org)  
Subject: Indirect Cost Rate Plan  
RFP-Questions

All written questions or inquiries are due by 5:00 p.m. (ET) on January 30, 2023. OHFA expects to respond to all questions and inquiries by 5:00 p.m. (ET) on February 6, 2023.

OHFA reserves the right to decline to respond to any question or inquiry that will cause an undue burden or expense for OHFA or which OHFA deems unnecessary for purposes of responding to this RFP. OHFA will post all questions or inquiries with answers on its [website](#).

### 1.4. Verbal Communication Regarding RFP Prohibited

Verbal communication from any potential applicant regarding this RFP to OHFA staff and/or OHFA Board members is prohibited.

### 1.5. Submission of Proposals

Proposals received after the specified date and time will not be eligible for consideration. Any applicant who wishes to confirm receipt of their proposal may contact OHFA by E-mail to [FinRFP@ohiohome.org](mailto:FinRFP@ohiohome.org) (Subject: Indirect Cost Rate Plan.) OHFA will respond by e-mail with confirmation of receipt of the proposal.

An electronic copy of the written proposal must be sent to [FinRFP@ohiohome.org](mailto:FinRFP@ohiohome.org) by 5:00 pm (ET), February 13, 2023. This copy is to be submitted in portable document format (pdf). No paper submissions are needed, nor should they be submitted.

### 1.6. Right to Request Additional Information

OHFA reserves the right to request any additional information to assist in the review process, including requiring oral presentations of proposals to OHFA staff members and the OHFA Evaluation Team.

### 1.7. Right to Reject Proposals and Cancel RFP

OHFA reserves the right to reject any and all proposals at any time. OHFA reserves the right to cancel, withdraw, modify or reissue this RFP at any time for any reason.

### 1.8. Evaluation and Award of Contract

The contract will be awarded to the firm that gives OHFA the most effective combination of qualifications, services required in the scope of services, ability to identify and analyze key issues, demonstrated track record of indirect cost rate plans prepared for and approved by cognizant agencies, availability of key personnel, and reasonableness of fee proposal relative to proposed work.

Preference will be given to firms with an office or branch in Ohio.

OHFA will post on its [website](#), the firm selected to be awarded the contract, after formal approval, by March 22, 2023.

## 1.9. Agreement for Services

The firm selected to provide the services described in this RFP is expected to sign and submit an agreement for services covering the scope and terms of this RFP. See Exhibit C for a sample agreement for services.

## 2. Scope of Services

### 2.1. Services Required

The applicant shall provide the following services:

a) Develop an Indirect Cost Rate Plan\* for OHFA including all supporting documentation (to be provided to OHFA), submit and defend the developed plan submitted to OHFA's cognizant federal agency, the U.S. Department of Health and Human Services, in order to provide OHFA with an approved Indirect Cost Rate Agreement letter, within 6 months of first plan submittal to the cognizant federal agency. In order to meet this timeline, the selected firm is expected to have an indirect cost rate plan for OHFA's review and approval prior to May 31, 2023. The scope of services will cover four consecutive fiscal years (Fiscal years ending June 30, 2023, through June 30, 2027).

\* Indirect Cost Rate Plan subject to latest guidance provided by the Office of Management and Budget (OMB) Title 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b) In addition, the selected firm will be available for questions regarding interpretation, reconciliation, and implementation of the cost allocation plan.

c) The selected firm may also be asked to meet with OHFA staff and/or external entities as appropriate to provide an in-depth explanation of all plan components, basis of cost allocation, and indirect cost rates.

a. This RFP does not provide for any travel cost reimbursement. All travel costs will be the responsibility of the contractor.

## **3. Required Information to be Provided in Response to Proposal**

### **3.1. Description of Firm**

Please describe your firm's experience in preparing and negotiating indirect cost rate plans with cognizant federal agencies.

The description of your firm should include, but is not limited to, the following:

- a. Location of firm's corporate and regional offices.
- b. Number of years' experience providing indirect cost rate plan services to state and local government entities.
- c. Organizations partnering on the proposal, if any.
- d. Identification and contact information for the project manager

### **3.2. Qualifications Relative to Scope of Services**

- a. Describe your organization's experience to provide services for the development, submission, implementation, and administration of an indirect cost rate plan as outlined in Section 2, Scope of Services.
- b. Provide a timeline which includes completion dates for all major milestones.
- c. Provide a list of deliverables expected as necessary, to be provided by OHFA to your firm, for the development of an indirect cost rate plan.

### **3.3. Institutional References**

Please provide three references from state and/or local government entities that have utilized your firm as an indirect cost rate plan consultant.

### **3.4. Staff References**

Identify the key individuals who would be assigned to work with OHFA. Specify which person would be the primary contact person.

Please furnish resumes for each individual identified above.

### **3.5. Cost Proposal**

Please provide a cost estimate for your firm (by fiscal year, July 1- June 30) to provide the services requested in Section 2, Scope of Services. Outline your cost proposal that would apply to this account, using Exhibit B.

### **3.6. Litigation, Administrative Proceedings, Investigations**

Please describe any pending or resolved material regulatory censure or litigation, regulatory action disclosure reporting, administrative proceedings or investigations, in which your firm has been involved within the last 3 calendar years.



### **3.7. Other Qualifications**

Provide any other additional information that should be considered.

## **4. Evaluation Process**

### **4.1. Minimum Evaluation Requirements**

Each proposal will be evaluated to ensure that the applicant has complied with each section of this RFP and followed the formatting, organizational and submission requirements as described in this RFP.

### **4.2. Evaluation Criteria**

The evaluation criteria will consist of a combination of the following:

Section 2.1 – Services Required  
Section 3.1 - Description of Firm  
Section 3.2 – Qualifications Relative to Scope of Services  
Section 3.3 – Institutional References  
Section 3.4 – Staff References  
Section 3.5 – Cost Proposal  
Section 3.6 – Litigation, Administrative Proceedings, or Investigations  
Section 3.7 - Other Qualifications  
Section 5.1 - Proposal Organization and Format  
Section 5.2 - Submitting the Proposal

## **5. Proposal Format and Submission**

### **5.1. Proposal Organization and Format**

OHFA requires the applicant to follow the formatting described below when submitting their proposal:

- a. Proposals will be typed on standard 8.5x11 inch paper, single-spaced with one-inch margins and a 12-point font. The electronic version of the response must be submitted in portable document format (pdf).
- b. Proposals will be organized and presented in order with the section headings and numbers as assigned in the RFP.
- c. Each response to this RFP will include as the cover page a Letter of Transmittal. See Exhibit A for the format of the Letter of Transmittal.
- d. Each response to this RFP will include as the second page a Table of Contents.

### **5.2. Submitting the Proposal**

OHFA requires the applicant to submit one electronic copy of the proposal as explained in Section 1.5. By submitting a proposal, the applicant agrees to the following:

- a. All materials submitted become the property of OHFA and shall be public information unless a statutory exception exists which would thereby determine that such information cannot be released to the public. If you have information in your proposal that you believe is an exemption to the public records laws, you must identify each and every occurrence of the information in the proposal on a separate page titled "Exemptions to the Public Records Law".
- b. Applicants will respond to all requirements in this RFP and comply with any terms and conditions outlined in the RFP. Failure to do so may result in disqualification of the proposal.
- c. All costs incurred in preparation of a proposal shall be borne by the applicant.
- d. If during the evaluation process it becomes necessary to make further distinctions between certain applicants, OHFA may request certain applicants to make oral presentations of proposals to OHFA staff members, and/or an OHFA Evaluation Team.
- e. Proposals received after the deadline will not be reviewed. Applicants are advised that there will be no opportunity to correct mistakes or deficiencies in their proposal after the submission deadline. Proposals that are missing required forms and or information may not be evaluated. It is the sole responsibility of the applicant to ensure its proposal is complete, accurate, responsive to the requirements, and received on time.

**EXHIBIT A**

*Note: Submit the following on your firm's letterhead*

**LETTER OF TRANSMITTAL**

Ohio Housing Finance Agency  
Attn: XXXXXXXXXXX  
XXXXX XXXXX –RFP Request  
57 E. Main Street  
Columbus, Ohio 43215

Dear Ohio Housing Finance Agency:

In accordance with the Request for Proposal, we are pleased to submit our written proposal.

\_\_\_\_\_ (insert firm's name) will provide XXXX services to OHFA for the period of MMMM DD, 200Y to MMMM DD, 200Y in accordance with the requirements of the Request for Proposal issued by OHFA.

Any information or questions concerning this written proposal should be directed to \_\_\_\_\_ (firm's liaison) at the following address and telephone number: \_\_\_\_\_.

Respectfully,

\_\_\_\_\_ (signature)  
Authorized Officer of Firm  
Printed Name and Title

# EXHIBIT B

## COST PROPOSAL FOR INDIRECT COST RATE PLAN CONSULTANT

FIRM: \_\_\_\_\_

Please provide a cost schedule for your proposed services.

OHFA Fiscal Year	Fee
<u>FY 2023 (3/27/2023- 6/30/2023)</u>	_____
<u>FY 2024 (7/1/2023- 6/30/2024)</u>	_____
<u>FY 2025 (7/1/2024- 6/30/2025)</u>	_____
<u>FY 2026 (7/1/2025- 6/30/2026)</u>	_____
<u>FY 2027 (7/1/2026- 3/27/2027)</u>	_____

Other Costs (if applicable):

## AGREEMENT FOR SERVICES

This Agreement for Services ("Agreement") is made and entered into by and between the **Ohio Housing Finance Agency**, (hereinafter referred to as "Sponsor"), and \_\_\_\_\_ (hereinafter referred to as "Contractor"). Sponsor and Contractor may be collectively referred to in this Agreement as the "Parties". (PO Number is \_\_\_\_\_)

### STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties agree as follows:

1. Statement of Work. Contractor will undertake and complete the work and activities set forth in Exhibit I, "Scope of Work", attached hereto, made a part hereof, and incorporated herein by reference as if fully rewritten herein. Contractor will consult with Sponsor's personnel and with other appropriate persons, agencies, or instrumentalities as necessary to ensure a complete understanding of the work and satisfactory completion thereof. Contractor further warrants and represents that it has the necessary background, training, and skills to undertake and complete the work and activities set forth in Exhibit I and will do so through its best efforts. Best efforts is defined as being efforts performed in a workmanlike manner according to the highest professional standard for the purpose intended.

2. Sponsor's Instructions. Sponsor may, from time to time as it deems appropriate and necessary, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Agreement. Upon notice and within a reasonable time, Contractor must comply with those specific instructions and fulfill those requests to Sponsor's satisfaction. It is expressly understood by the Parties that the instructions and requests are for the sole purpose of performing the specific tasks requested and to ensure satisfactory completion of the work described in this Agreement. Any specific instruments from the Sponsor under this provision are not intended to amend or alter the terms of this Agreement or any part thereof. The management of the work, including the exclusive right to control or direct the manner or means by which the work described herein remains with and is retained by the Contractor. Sponsor retains the right to ensure that the work of the Contractor is in conformity with the terms and conditions of the Agreement, as specified in Exhibit I.

3. Term and Location of Performance.

a) Term. This Agreement is binding upon both parties, and the work described in this Agreement will commence on \_\_\_\_\_ and all activities under this Agreement will be completed not later than \_\_\_\_\_, on which date this Agreement will expire. In the event that the work hereunder is to be done in separate phases, each phase will be completed within the time prescribed in Exhibit I. In addition, if the Contractor and Sponsor desire to extend this Agreement for an additional period of time, an amendment will be executed setting forth the additional time period and an increase in the amount, as needed.

b) Location of Performance. Contractor affirms that it has read and understands Executive Order 2019-12D issued by Ohio Governor DeWine, that it will abide by those requirements in the performance of this Agreement, and that it will perform no services required under this Agreement outside of the United States. The Executive Order is available at the following website:

<https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d>

c) Change of Performance Location. Contractor also affirms, understands, and agrees to

immediately notify Sponsor of any change or shift in the location(s) of services performed by Contractor or its subcontractors under this Agreement, and no services will be changed or shifted to a location(s) outside of the United States.

4. Compensation. In consideration of the mutual promises stated in this Agreement, Sponsor agrees to pay Contractor at the rates set forth in Exhibit I on a reimbursement basis upon Sponsor's receipt and approval of proper invoices as more fully stated in section 5 of this Agreement. Contractor will not be compensated for services rendered except as expressly set forth herein. The total compensation to be paid to Contractor under this Agreement will not exceed \_\_\_\_\_ Thousand Dollars (\$\_\_\_\_\_.00). Consequently, Contractor will only be paid for services actually performed which may be less than the total compensation allocated in this section. If travel expenses are contemplated and agreed upon by the Parties as necessary in order to perform the services described in Exhibit I, Contractor will be compensated for travel expenses at the rates set forth in the Office of Budget and Management's Travel Rules more fully stated in Ohio Administrative Code 126-1-02 (the "Expense Rule"). Contractor agrees that it will not be reimbursed and Sponsor will not pay any items that are deemed to be "non-reimbursable travel expenses" under the Expense Rule. This provision is subject to the compensation limit stated herein.

5. Proper Invoicing Method. Contractor must submit proper invoices that are itemized and clearly include all of the following:

- a) Contractor's legal name, street address, email, phone number and (if applicable) fax number;
- b) OHFA contact information including email address;
- c) Invoice sent date and due date;
- d) P.O. number or contract number;
- e) Invoice number;
- f) Terms of payment;
- g) Delivery of the commodity or performance of the service described in Exhibit I;
- h) Date or dates of the purchase or rendering of the service;
- i) An itemization of the things or service done, the material supplied, respective hourly rate associated with the service performed or the amount of labor furnished; and
- j) The sum due pursuant to that invoice in relation to the total compensation owed under the Agreement.

The adequacy and sufficiency of Contractor's invoices will be determined solely by Sponsor. If Sponsor determines that an invoice is inadequate or insufficient, or determines that further documentation or clarification is required for a particular invoice, the burden of providing the required information or documentation is on Contractor. Costs incurred by Contractor which are associated with providing the required additional information or documentation and costs related to defending an inadequate or insufficient invoice will not be charged to Sponsor and will not be considered an allowable expense under this Agreement. Failure to comply with this section will delay payment to Contractor under this Agreement. Further, a Purchase Order Number must be issued by the Sponsor prior to this Agreement being signed by the Sponsor.

6. Contractor's Expenses. Contractor is solely be responsible for all office, business, and personal expenses associated with the performance of this Agreement unless otherwise stated herein.

7. Acknowledgment of Independent Contractor Status. Contractor acknowledges and agrees that any individual providing personal services under this Agreement is not a public employee for purposes of Ohio Revised Code (“ORC”) Chapter 145. Sponsor considers Contractor to be an independent contractor or any other classification other than a public employee, and as such, will make no contributions to the public employees retirement system (“OPERS”) on Contractor’s behalf. If Contractor has fewer than five (5) employees, Contractor has been provided an acknowledgment form attached hereto as Exhibit II, which must be completed by the Contractor, returned to Sponsor, and subsequently sent to the Ohio Public Employees Retirement System within thirty (30) days of the start date of this Agreement as required under ORC Section 145.038. That acknowledgment form states that the individuals employed by the Contractor understand that they are independent contractors, not public employees, and as such are not entitled to OPERS benefits based on this Agreement. It is further agreed that neither Contractor nor its employees or agents are “employees” of Sponsor as the term is used in ORC Section 124.01(F) and, therefore, are not eligible for vacation, medical insurance, sick leave, parental leave, leave of absence, tenure, bumping rights, retirement, or any other benefits or rights, which are incidents of public employment subject to the civil service laws of Ohio. Moreover, Contractor is responsible for any compliance with labor laws and contracts as it pertains to any union employees under its employment. Nothing herein contained will be construed to place the parties in the relationship of partners or joint venturers or of franchisor/franchisee.

8. Data and Information Control.

a) Confidentiality. The Contractor may learn of information, documents, data, records, or other material that is confidential in the performance of this Agreement. The Contractor may not disclose any information obtained by the Contractor as a result of this Agreement, without the Sponsor’s written permission to do so. The Contractor must assume that all Sponsor information, documents, data, source codes, software, models, know-how, trade secrets, or other material is confidential. In addition, the Contractor may not disclose any documents or records excluded by Ohio law from public records disclosure requirements.

The Contractor’s obligation to maintain the confidentiality of the information will not apply where the information:

- i. Was already in the Contractor’s possession before disclosure by the Sponsor, and the information was received by the Contractor without the obligation of confidence;
- ii. Is independently developed by the Contractor;
- iii. Is or becomes publicly available without breach of this Agreement except as provided in the next full paragraph;
- iv. Is rightfully received by the Contractor from a third party without an obligation of confidence;
- v. Is disclosed by the Contractor with the written consent of the Sponsor; or
- vi. Is released in accordance with a valid order of a court or governmental agency, provided that the Contractor:
  - Notifies the Sponsor of such order immediately upon receipt of the order; and
  - Makes a reasonable effort to obtain a protective order from the issuing court or

agency limiting disclosure and use of the confidential information solely for the purposes intended to be serviced by the original order of production.

Although some sensitive personal information, such as medical records, addresses, telephone numbers, and social security numbers may be publicly available through other sources, the Contractor will not disclose or use any sensitive personal information in any manner except as expressly authorized in this Agreement. Therefore, notwithstanding item iii above, the Contractor has an obligation to maintain the confidentiality of sensitive personal information and will do so.

The Contractor must return all original sources of information or data provided by the Sponsor and destroy any copies the Contractor has made on termination or expiration of this Agreement.

The Contractor will be liable for the disclosure of any confidential information. The Parties agree that the disclosure of confidential information originating from the Sponsor may cause the Sponsor irreparable damage for which remedies other than injunctive relief may be inadequate, and the Contractor agrees that in the event of a breach of the obligations hereunder, the Sponsor is entitled to temporary and permanent injunctive relief to enforce this provision without the necessity of proving actual damages. However, this provision will not diminish or alter any right to claim and recover damages.

Contractor will report security and privacy incidents to Sponsor in the most expedient time possible but not later than thirty days following its discovery or notification of the breach and will cooperate with the Sponsor and its response team in determining the scope of the breach and the affected users.

b) Public Records And Retention Of Documents And Information. The Contractor acknowledges that this Agreement, as well as any information, deliverables, records, reports, and financial records related to this Agreement are presumptively deemed public records pursuant to ORC 149.43. The Contractor understands that these records must be made freely available to the public unless the Sponsor determines that, pursuant to state or federal law, the requested materials are confidential or otherwise exempt from disclosure. The Contractor must comply with any direction from the Sponsor to preserve or provide documents and information, in both electronic and paper form, and to suspend any scheduled destruction of such documents and information.

c) Security and Safety Rules. When using or possessing Sponsor data or accessing Sponsor networks and systems, the Contractor, its employees, subcontractors and agents must comply with all applicable Sponsor rules, policies, and regulations regarding Sponsor-provided IT resources, data security, and integrity. When on any property owned or controlled by the Sponsor, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

## 9. Termination.

a) Termination for Breach. Sponsor may immediately terminate this Agreement, in whole or in part, by written or oral notice to Contractor for any of the following reasons:

- i. Contractor fails to perform the services or deliver the product further described in Exhibit I by the date required or by any later date as may be agreed upon by the Parties through an amendment to this Agreement;
- ii. Sponsor determines that the services or product to be provided under this Agreement is inadequate for the initially intended use or cannot be feasibly adapted to the intended use;



- iii. Any warranty or assurance provided by Contractor in this Agreement is found to have been false or incorrect when made or Contractor fails to immediately notify Sponsor that a warranty or assurance in this Agreement was subsequently found to be false or incorrect;
- iv. Contractor or any of its subcontractors perform services under this Agreement outside the United States;
- v. Contractor makes any general assignment for the benefit of creditors, closes its business, becomes subject to a court order appointing a receiver, trustee, or similar official to act on its behalf, or files bankruptcy;
- vi. Contractor becomes the subject of any proceeding under any law related to bankruptcy, insolvency, reorganization, or relief from debtors; or
- vii. In Sponsor's sole opinion, Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under this Agreement.

The Sponsor, in its sole discretion, may provide written notice to Contractor of a breach and permit the Contractor to cure the breach. The cure period provided by Sponsor may not exceed 21 calendar days. During the cure period, the Sponsor may buy substitute services from a third party and recover from the Contractor any costs associated with acquiring those substitute services. Notwithstanding the Sponsor permitting a period of time to cure the breach or the Contractor's cure of the breach, the Sponsor does not waive any of its rights and remedies provided the Sponsor in this Agreement, including but not limited to recovery of funds paid for services the Contractor performed outside of the United States, costs associated with corrective action, or liquidated damages.

Sponsor will not be obligated to pay for any services or products provided under this Agreement if Contractor's actions result in any one of the conditions for Termination for Breach described above. Contractor will also immediately return all funds paid to the Sponsor if it or any of its subcontractors cause a Termination for Breach to occur. Sponsor may also recover all costs associated with any corrective action that it may undertake from the Contractor if the Contractor or any of its subcontractors cause a Termination for Breach to occur, including an audit or risk analysis related to Contractor's performance of services outside the United States. The Sponsor may also recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

b) Termination for Just Cause. Sponsor may terminate this Agreement, in whole or in part, for just cause upon thirty (30) days written notice to the Contractor. Upon notice of termination, Contractor will immediately cease all work under this Agreement and take all necessary or appropriate steps to limit disbursements and minimize costs in ceasing all work. Contractor will be required to furnish a report setting forth the status of all activities under the Agreement including, but not limited to, the work completed and the payments received by Contractor and any other information as Sponsor may require. Subject to any claim for damages arising from Contractor's breach, Contractor will be entitled to compensation for work completed through the date Contractor received notice of termination upon submission and approval of proper documentation or invoices.

c) Waiver. No term or provision of this Agreement will be deemed waived and no breach excused unless the waiver of consent is in writing and signed by both Parties to this Agreement.

d) Costs Associated with Termination for Cause.

i. Sponsor may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

ii. If the Sponsor determines that actual and direct damages are uncertain or difficult to ascertain, the Sponsor in its sole discretion may recover a payment of liquidated damages in the amount of one percent of the value of the Agreement.

10. Certification of Funds. It is expressly understood by Sponsor that none of the rights, duties, and obligations described in this Agreement will be binding on either party until all statutory provisions under the Ohio Revised Code and procedural requirements under OHFA's bylaws have been complied with. Moreover, no act by OHFA's Board is considered binding upon or a restriction upon a future OHFA Board. If at any time sufficient funds are not available or appropriated to continue funding any payment due under this Agreement, this Agreement will terminate in accordance with the "Termination for Just Cause" provision in Article 9(b).

11. Equal Employment Opportunity. Pursuant to ORC 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or subcontractor, will not discriminate, by reason of race, color, religion, sex, age, disability, national origin, military status or ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement. Contractor further agrees that Contractor, any subcontractor and any person acting on behalf of Contractor or subcontractor will not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability, national origin, military status or ancestry. Contractor represents that it has a written affirmative action program for the employment and effective utilization of disadvantaged persons and will file a description of that program and a progress report on its implementation with the equal employment opportunity office of the department of administrative services. Contractor and any of its subcontractors are encouraged to use MBE and EDGE vendors to assist in completing the work under this Agreement.

12. No Unfair Labor Practice Findings. Contractor warrants and represents that neither it nor any of its subcontractors are listed with the Secretary of State for unfair labor practices, pursuant to ORC 121.23.

13. Forbearance. No act of forbearance or failure to insist on the prompt performance by Contractor of its obligations under this Agreement, either express or implied, will be construed as a waiver by Sponsor of any of its rights hereunder.

14. Indemnification. The Contractor agrees to indemnify and to hold the Sponsor and State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement and the Contractor's performance of the obligations or activities in furtherance of the Project which are attributable to the Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by the Contractor, or joint venturers while acting under this Agreement. Claims that the Contractor will indemnify the Sponsor and State of Ohio include, but are not limited to, any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks. The Contractor will bear all costs associated with defending the Sponsor and the State of Ohio against any claims.

15. Ohio Ethics Laws. Contractor, by its signature on this document, certifies: (1) it has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, ORC 102.01 *et seq.*, 2921.01, 2921.42, 2921.421, 2921.43, and 3517.13(I) and (J); and (2) it has taken and will not take any action inconsistent with those laws, as any of them may be amended or supplemented from time to time.

16. Drug-Free Workplace Compliance. In the event that work performed pursuant to the terms of this Agreement will be done while on state property, Contractor hereby certifies that all of its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

17. Adherence to State and Federal Laws, Regulations. Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of the work under this Agreement. Contractor and its employees are not employees of Sponsor with regard to the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code and for state revenue and tax laws, state workers' compensation laws and state unemployment insurance laws. Contractor accepts full responsibility for payment of all taxes including, with limitation, unemployment compensation insurance premiums, all income tax deduction, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the work authorized by this Agreement. Contractor is solely responsible for obtaining its own workers' compensation coverage for itself and its employees. Sponsor is exempt from federal, state and local taxes and will not be liable for any taxes under this Agreement.

18. Unresolved Findings. Contractor warrants that it is not subject to an unresolved finding for recovery under O.R.C. 9.24. If this warranty is deemed to be false, this Agreement is void *ab initio* and the Contractor must immediately repay to the Sponsor any funds paid under this Agreement. Contractor further warrants that it has no outstanding final judgments against it by the State, including tax liabilities, and agrees that any payments incurred by the State in this Agreement may be applied against any outstanding judgments or liabilities currently owed to the State or incurred by the State in the future.

19. Conflict of Interest. Contractor certifies that it does not have on its staff, payroll, or otherwise employed for monetary compensation or not, any employee who, within the past twelve months, was a public official or employee with Sponsor or any other board, commission or agency of the State of Ohio who had the ability to make decisions regarding approval, disapproval, recommendation, rendering advice, investigation or otherwise exercised substantial administrative control over matters concerning Contractor at the time of his or her state employment. Further, no personnel of Contractor, subcontractor of Contractor or personnel of any such subcontractor, or public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement will, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Any such person, who, prior to or after the execution of this Agreement, acquires any personal interest, involuntarily or voluntarily, must immediately disclose his interest to Sponsor in writing. Thereafter, the affected person will not participate in any action affecting the work under this Agreement unless Sponsor determines that, in light of the personal interest disclosed, their participation in that action would not be contrary to the public interest.

20. Force Majeure (Excusable Delay). As used in this Agreement, the term "force majeure" includes all events that cause delay in the performance under that Agreement due to events or causes beyond

its or its subcontractor's control and without its or its subcontractor's negligence or fault. For purposes of this section, the term "force majeure event" includes without limitation, the following: (1) Acts of God, such as epidemics, pestilence, lightning, earthquakes, fires, storms, hurricanes, tornadoes, floods, washouts, droughts, or other severe weather disturbances; (2) other events or causes that could not be foreseen in the exercise of ordinary care and beyond the reasonable control of the affected party, such as explosions, restraining of government and people, war, strikes, and other similar events or causes.

If the Sponsor or the Contractor cannot perform any part of its obligations under this Agreement because of force majeure, that party is excused from those obligations, to the extent that performance is prevented by the force majeure event and that party took all commercially reasonable steps to mitigate or avoid the effects of the force majeure event. If there is only a delay in performance, such delay may extend only for that time lost because of the force majeure event. At any time a party is unable to perform those above-referenced obligations, it must also do the following:

- a) Promptly notify the other party, in writing, of any material delay in performance due to a specified force majeure event;
- b) Provide detailed information of the force majeure event;
- c) Provide a proposed revised performance date to make up for performance delays due to the force majeure event. When applicable, the revised schedule must provide for performance time not to exceed the time lost as a result of the force majeure event.

21. Miscellaneous.

a) Governing Law. This Agreement is governed by the laws of the State of Ohio as to all matters, including any challenge to its validity, enforceability, construction, effect, and performance.

b) Forum and Venue. All actions regarding this Agreement will be forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio.

c) Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the Parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

d) Severability. Whenever possible, each provision of this Agreement is to be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, that provision will be ineffective only to the extent of that prohibition or invalidity finding, without invalidating the remainder of such provisions of this Agreement.

e) Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder must be in writing and will be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth below or to another address designated by the applicable party in written notice transmitted in accordance with this provision.

In case of Sponsor, to:

Ohio Housing Finance Agency  
57 East Main Street  
Columbus, Ohio 43215

In case of Contractor, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

f) Amendments or Modifications. Either Party may at any time during the term of this Agreement request amendments or modifications. Requests for an amendment or modification of this Agreement must be in writing and specify the requested changes and the justification for those changes. Should the Parties consent to an amendment to or modification of the Agreement, then an amendment will be drafted, approved, and executed in the same manner as the original agreement. Any amendment or modification to the Agreement must be in writing and signed by both Parties to be effective.

g) Pronouns. The use of any gender pronoun includes all the other genders, and the use of any singular noun or verb includes the plural, and vice versa, whenever the context so requires.

h) Headings. Section headings contained in this Agreement are inserted for convenience only and are not considered a part of this Agreement.

i) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein may be assigned or subcontracted by Contractor without the Sponsor's prior express written consent. Any assignment or delegation without the Sponsor's prior express consent, is voidable by the Sponsor.

j) Refrainment from Boycott. Pursuant to ORC 9.76, Contractor agrees that it will refrain from boycotting any jurisdiction with whom the State can enjoy open trade, including Israel, during the contract period.

k) Electronic Signatures. Copies of signatures sent by facsimile transmission or provided electronically in portable document format ("PDF") are deemed to be originals for purposes of execution and proof of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement for Services on the last day and year set forth below.

CONTRACTOR:

SPONSOR:

[NAME of Contractor]

**Ohio Housing Finance Agency**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Shawn Smith  
Interim Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_