



RCAC

Request for Proposal

Labor Compliance Consultant for Biomass Utilization Fund Projects in Tuolumne County

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No later than 5:00 pm PDT

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Terms and Definitions

Biomass Utilization Fund (BUF): The BUF originally referred to a single Biomass Utilization Facility (campus) project. Upon completion of the biomass facility feasibility study in 2019, HCD determined that focusing on one BUF project was not feasible and that multiple biomass projects should be pursued under a revolving Biomass Utilization Fund. HUD agreed that smaller biomass projects could meet the same goals and NDR funding requirements as the one large facility proposed in the NDRC application. Thus, the biomass utilization facility in the NDRC funding application was changed to a Biomass Utilization Fund.

BDT: Bone Dry Tons is the term used to describe biomass that has been removed from the forest and dried to the point where proper moisture levels are achieved for processing through a biomass Development.

Community Development Block Grant (CDBG) Program with three primary objectives: benefit those with low- and moderate-income, aid in preventing neighborhood deterioration, meet other urgent community development needs due to natural disasters or other emergencies.

Contractor: The term “contractor” refers to a third-party firm formally procured by RCAC to assist with carrying out NDR activities.

Core Team: The Core Team is a group of Federal, State, and local agencies that work together to promote NDR grant activity success and ensure positive outcomes as outlined in the NDRC application.

Department of Housing and Urban Development (HUD): Federal department through which the CDBG NDR funds were provided to HCD.

Department of Housing and Community Development (HCD): State department through which California is administering the CDBG NDR funds.

National Disaster Resiliency (NDR): A program designed to provide grants to communities to rebuild in a more resilient way following major disaster.

Program: Refers to BUF revolving loan activity which is used to fund scattered site projects. The BUF program can also fund multiple separate businesses on a single site (campus).

Request for Proposal (RFP): A procurement document designed to solicit proposals for services where cost is considered as a factor.

RCAC: Rural Community Assistance Corporation (RCAC): Is the agency administering the BUF program and procuring Labor Compliance Consulting services. RCAC provides technical and financial assistance to rural communities in the Western United States. RCAC is under an agreement with HCD as a Community Development Financial Institution (CDFI) to provide CDBG-NDR funds to private businesses for economic development projects in Tuolumne County.

Sierra Nevada Conservancy (SNC): is assisting RCAC in administering the BUF program. SNC is a state agency that works in the Sierra Nevada area of California promoting social, environmental and economic prosperity.

Scope of Work (SOW): Proposers design and work plan for providing Labor Compliance Consulting Services on the Biomass Utilization Fund Project(s). The SOW includes determining proper level of monitoring and reporting for the Project(s). The Project SOW may be broken out by individual development or by aggregating all developments into one Project.



1.0 Introduction

1.1 About RCAC

Founded in 1978, Rural Community Assistance Corporation (RCAC) is a 501(c) 3 nonprofit organization headquartered in West Sacramento, California. Our mission is to provide training, technical and financial resources and advocacy so rural communities can achieve their goals and visions. We serve rural low-income communities in 13 western states—Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington and Wyoming—and the western Pacific. All activity is targeted to low-income rural communities with populations of 50,000 or fewer.

RCAC provides a wide range of services for rural and Native American communities and community-based organizations. Program areas include affordable housing development, environmental infrastructure development, and community development finance. RCAC also offers leadership and economic development training and technical assistance. With an annual operating budget of more than \$23 million, and more than 160 employees working from 52 field offices, RCAC is an important resource to low-income rural communities throughout the West.

1.2 About the Program

The California Department of Housing and Community Development (HCD) has been awarded \$70,359,459.00 from the U.S. Department of Housing and Urban Development (HUD) using federal Community Development Block Grant - National Disaster Resilience program (CDBG-NDR) funding. The HUD awarded activities include public facilities, public infrastructure, and economic development projects as part of the Community and Watershed Resilience Program (CWRP). This program is designed to develop the three project activities (pillars) and connect them together in order to assist in recovery efforts from the 2013 Rim Fire and provide long-term community and forest resilience. The CWRP also creates a unique partnership between local, state,

and federal entities to integrate forest and community resilience practices while addressing unmet recovery needs from the Rim Fire disaster.

The CWRP is a collaborative effort comprised of state, federal, and local agencies, and it is governed by a Core Team, which is comprised of representatives from each agency. The agencies involved in CWRP include, the United States Department of Agriculture Forest Service (USFS), Tuolumne County (the County), and the following California state agencies: The Governor’s Office of Planning and Research (OPR), California Environmental Protection Agency (CalEPA), California Department of Forestry and Fire Protection (CAL FIRE), Housing and Community Development (HCD), and the Sierra Nevada Conservancy (SNC).

The CWRP is comprised of three distinct sets of activities called “pillars” which are all located in Tuolumne County:

- 1) Forest and Watershed Health Program (FWHP) – Investing in activities to recover forest and watershed health by removing organic material from forests that act as fuel for wildfire, reforestation, and recovery efforts; rebuild rangeland infrastructure destroyed in the Rim Fire; and develop preventative measures including a system of strategic fuel breaks to protect communities from future wildfires.
- 2) Community Resilience Center(s) (CRC) – Designing and constructing CRC(s) that will provide shelter and necessary resources in the event of a disaster and provide ongoing year-round community support services, educational programs, and job training.
- 3) Biomass Utilization Fund (BUF) – Provide funding for one or more, scattered site projects or a facility or campus with one or more businesses that can utilize the organic feedstock material from private and public land’s forest management activities.

The HCD is the CDBG-NDR contract administrator for the HUD seventy-million-dollar award. The Core Team provides support in implementation of the CWRP. SNC is the project coordinator for the FWHP and BUF pillar activities. HCD is the Responsible Entity for National Environmental Policy Act (NEPA) compliance and may be the lead agency for California Environmental Quality Act (CEQA) compliance, so HCD staff will be involved in review and approval of Contractor’s final products.

Rural Community Assistance Corporation (RCAC) has entered into a three-party agreement with HCD and SNC to administer the BUF Economic Development Loan program.

RCAC is soliciting proposals for a qualified consultant or a team of consultants, hereinafter referred to as “Contractor” or “Proposer” to provide labor compliance consulting associated with construction projects being funded by the Biomass Utilization Fund (BUF). The services will generally consist of performing labor compliance monitoring and reporting for any construction related activities for applicants to the BUF. The qualified Contractor must be familiar with and have experience with all the necessary and required forms for labor compliance reporting and monitoring for public works capital improvement projects. Consultants responding to this Request for Proposal (RFP) shall be prepared to provide full service to RCAC in a timely manner to enable RCAC to meet critical deadlines and schedules.

Successful Consultant must have extensive experience monitoring and reporting prevailing wages, certified payrolls, on-site monitoring, investigations, payroll audits, labor laws, labor unions, apprentice program requirements, and other requirements to ensure compliance.

1.3 About the Proposed Projects

The following projects have advanced in consideration for funding under the BUF. RCAC, SNC and HCD may select any combination of these projects or no projects to be funded by the program. The following information has been provided by the applicants to assist potential bidders in developing proposals. Any questions received about specific projects during the question period will be passed on to applicants by RCAC. Bidders should not contact the applicants to obtain more information about each proposed project.

Tuolumne Biomass LLC (TBLLC)

Description of project:

The project will process up to 32,000 bone dry tons (BDT) of woody biomass annually, to be procured from local loggers into value-added, merchantable products, including posts, poles, wood chips, and firewood. The project will generate its own processing heat through a wood-fueled system engineered by Wisewood Energy. The project will be staffed by 19 employees.

Preferred Potential Site: Parcel number is 063-070-086, located at 13037 Sanguinetti Road, Sonora CA 95379. Currently the site is undeveloped parcel adjacent to a utility scale solar plant. A small portion of the site was used as a gravel borrow pit for a recent highway project. The ground is very rocky with few trees or other flora. This site will be leased. Site will likely require off-site infrastructure and construction of on-site infrastructure with grading site preparation for processing facilities.

This developer proposes to use third party contractors (loggers) to secure biomass feedstock from the forest.

Tuolumne BioEnergy, Inc. (TBI)

Description of project:

This business will use its own staff and equipment to process and remove biomass feedstock from local forests. This will remove the barriers of transport and operational costs by using adaptable technologies and processes in the forest to make accessing biomass feedstock supply less costly. The proposed industrial processing site will convert forest biomass resources to wood pellets, a merchantable product avoiding GHG emissions from pile burning, and supply all of the energy and heating needs for the processing.

Mobile chipping and hauling operations are dedicated to supplying waste forest biomass to the pellet production facility in Sonora (see specific parcel information below). The plant in Sonora will annually process 40,000 bone dry tons of forest biomass obtained from piles in the nearby forest. Approximately 24 employees will be employed by the facility.

The processing facility will include a large concrete pad for the equipment installation and a metal framed building to protect the equipment and pellet storage. The office will be a modular facility which is connected to the county water and sewer system.

Preferred Site: The proposed Light Industrial M1 Zone parcel numbers 061-150-047-000 and 061-150-046-000 are located on Camage Avenue, Sonora, CA 95370. The two parcels combine for 3.27 acres, the undeveloped, flat, graded and graveled area is 2.5 acres. This site will be leased. No off-site infrastructure will be required.

Carbon Based Solutions (CBS)

Description of project:

CBS proposes to process biochar and related biocarbon products to be used for agriculture, soil remediation, water purification, and other applications. The kilns to produce the biochar are patented and sold by Biochar Now, a Colorado company. Twenty to forty Kilns will process (cook) 18,000 BDT of biomass annually into biochar to be sold to the Central California market. CBS expects to employ 30 people at full production.

Preferred Potential Site: The site encompasses 13.5 acres and is located at 8933 State Highway 120, Chinese Camp, CA 95309, County: Tuolumne. The parcel number is 064-340-007-000. This site may be acquired by BCT and NDR funding may be used for real property acquisition. There will be required off site infrastructure for this development. There will also be extensive onsite improvements, which include installation of up to 40 kilns and all the associated buildings for the packaging of biochar products and a modular building for business operations.

1.4 Scope of Work

The consultant will act as the Labor Standards and Section 3 Officer which is to perform all duties associated with ensuring that all applicable Labor requirements are conducted in compliance with federal, state and local requirements; as well as, providing labor monitoring services for contracts funded by the Biomass Utilization Fund; projects may include construction of various types. Tasks to be performed will include, but not be limited to the following:

Labor Officer Duties

1. Create Policies and Procedures which include how labor activities will be handled and communication with contractors and Federal and State agencies will be conducted and documented. Activities which should be focused on are:
 - a. Tracking and preparing the Semi-Annual Reports that are submitted to HCD in October and April
 - b. Methods of conducting reviews and/or investigations into potential labor violations that could require recapture of funds or entering contractors onto the debarment and suspension list,
 - c. Certified Payroll Review (CPR) review process and corrections, to include how it is to be documented,
 - d. Obtaining required authorization from both workers and contractor administration, i.e., Authorization For Payroll Deductions (worker) and Authorization to Sign (Company),

- e. Submitting and reconciling Additional Classification Request for classifications that do not appear on the executed wage decision,
- f. Assessment and Collection of Liquidated Damages, to include formalized communication and documentation,
- g. Conducting Employee Interviews – Frequency, Sampling, and handling violations, and handling and Addressing Worker Complaints.

2. Monitoring and Compliance Duties:

- a. Interview one employee, per contractor, per trade and verify results against submitted payrolls on a monthly basis.
 - b. Respond to audit requests for information received from the State of California Department of Industrial Relations (DIR), the Federal Department of Labor (DOL) and other regulatory authorities.
 - c. Section 3 Monitoring
 - d. WBE/MBE compliance monitoring
2. Prepare materials for and attend pre-bid and preconstruction meetings to explain labor standards requirements to contractors. Meeting minutes and any follow up actions need to be recorded and maintained.
 3. Assist in the review and responses to requests for information during bidding.
 4. Evaluate submitted bids for accuracy and past labor violations – to include prevailing wage violations – by contractors, including establishing additional labor classifications.
 5. Establish and maintain certified payroll files in conformance with standards established by RCAC, HCD, DOL, and HUD.
 6. Lead the creation and collection of forms, certified payroll verification and review for accuracy, completion, and compliance; confirmation of apprentice program; participation in on-site monitoring; field reviews, and all related follow-up including assistance with electronic submissions of certified payrolls and all related documents into the California Department of Industrial Relations (DIR).
 7. Address labor compliance inquiries from workers and contractors.
 8. Provide technical guidance to contractors, as needed, to aid in contractor electronic registration process as well as completion and submission of electronic payroll forms.
 9. Monitor receipt of “one-time” documents required by federal agencies, e.g., certificate of employee authorization and statement of fringe benefits and Apprentice programs.
 10. Review, monitor and report weekly payrolls submitted by contractors and subcontractors.
 11. Provide RCAC with a concise monthly report, mentioning specific work and tasks performed by the firm.
 12. Follow-up and report on delinquent payrolls and wage underpayment, including leading corrective actions.
 13. Interview one employee per trade, per month and verify interview results against submitted payrolls.

14. Provide Title VI verification and reports upon the request of RCAC.

Section 3 Duties

1. Provide sample agreement language and templates for the following, which may include but is not limited to:
 - a. Instructions to Bidders
 - b. Section 3 Overview
 - c. Prime Contractor Roles and Responsibilities
 - d. Subcontractor Roles and Responsibilities
 - e. Section 3 Project Plan
 - f. Employee List
 - g. Tracking Report
 - h. Section 3 Clause for Subcontractors

2. Provide support to ensure proper procurement, contracting, and documentation by completing the following steps such as:
 - a. Procurement/Bidding
 - i. Bid documents effectively communicate Section 3 is triggered and required contractor and subcontractor roles and responsibilities.
 - ii. Section 3 Project Plan template is included with project bid documents, including the target area definition.
 - iii. Completed Section 3 Project Plans are submitted with bids
 - iv. Review plans and provide technical assistance on plan development for successful bidder
 - b. Contracts
 - i. Section 3 Clause, including updated regulatory citations
 - ii. Required forms are included in contract:
 1. Completed project implementation forms submitted with bid
 2. Compliance tracking reports developed by grantee (including monthly 25% and 5% benchmark reporting)
 3. Narrative forms or other forms for tracking qualitative efforts
 - c. Project Files/Documentation
 - i. Reports that show total hours worked as well as Section 3 hours and targeted Section 3 hours
 - ii. Section 3 worker, targeted worker and business concern income certifications and supporting documentation
 - iii. Documentation of other qualitative efforts planned and undertaken

3. Provide guidance and oversight for tracking and documenting Section 3 hours and compliance:
 - a. Review estimated Labor Hours and Benchmarks
 - i. Establish initial numeric goals
 - ii. 25% and 5% benchmarks
 - b. Review hours tracked based on any of the following:
 - i. Prevailing wage data
 - ii. Time-and-attendance system data

- iii. Good faith assessments of hourly workers not tracked through a data system; or
 - iv. Good faith assessments of salaried employees
4. Provide support to contractors and RCAC on reporting to HCD/HUD such as, but is not limited to:
 - a. Prepare and/or review DRGR, IDIS, and SPEARS entries for program-specific Section 3 reports
 - b. Review qualitative reporting to ensure narratives effectively communicate best efforts when numeric benchmarks are not met
 - c. Provide technical assistance to contractors who behind on benchmarks
 5. Provide MBE/WBE, DBE and other Disadvantaged Business Enterprise Programs verification reports upon the request of RCAC, if needed.

Training and Technical Assistance Duties:

1. Provide technical assistance and training for RCAC staff to perform some or all of the monitoring functions as may be requested.
 - a. Prepare periodic report on status of labor compliance documents for construction and rehabilitation projects.
 - b. Meet with RCAC staff to review payroll files.
 - c. Meet with grantor agency and other government representatives and be prepared to respond to compliance issues, as needed.
2. Provide information on how any fees, fines and penalties that may be levied against any contractor or subcontractor by any federal, state or local agency as a result of these monitoring services is administered by the firm.
3. Review labor standard provisions of contract specifications upon the request of RCAC.

1.5 Submitting Proposals

Please acknowledge receipt of this RFP and indicate whether your company intends to submit a proposal or not. Your response should be sent to cspencer@rcac.org and received no later than **April 11, 2022** at 5pm PDT. If you plan to submit an RFP, please include the contact name, email address and phone number of your company's point of contact for your RFP.

Proposal must be submitted using the prescribed format as outlined in Section 2, Proposal Preparation Guidelines.

Proposal to be submitted electronically to:

Cyndi Spencer
 Email: cspencer@rcac.org
 Cell: 916/708-1896

- Proposals shall be submitted no later than the time and date indicated on the cover page of the RFP.
- Late submittals will not be accepted.
- All submittals, whether accepted or rejected, will become property of RCAC and will not be returned.
- RCAC reserves the right to waive defects and/or irregularities in proposals and will be the sole judge of the materiality of any such defect or irregularity.
- All costs associated with proposal preparation will be borne by the proposer.

1.6 Questions

Respondents may submit questions concerning the intent of any part of the Request for Proposals by submitting a written request for an interpretation or correction to Cyndi Spencer at cspencer@rcac.org.

No inquiries/questions regarding this RFP will be accepted after 5 PM (PDT) on **March 31, 2022**. Verbal questions are not permitted other than as described by this section and during interviews, if any.

All timely requests for interpretation or correction, submitted in writing will receive a written response from RCAC. Questions from all respondents and subsequent answers will be published on the RCAC website. Responses to questions that may impact or cause amendment to this RFP will be summarized and provided to Respondents by **April 4, 2022**. All interested firms should make every effort to ensure they have all the latest information prior to their submittal of proposals.

RCAC reserves the right to contact any Respondent for clarification after responses are received if such is deemed desirable by RCAC.

1.7 Accepting Proposals

Proposals will be evaluated using the criteria in Section 7, Proposal Evaluation Criteria. RCAC may accept or reject any proposal whether or not it satisfies the requirements stated in this RFP. RCAC also reserves the right to negotiate with bidders.

Your response to this RFP constitutes an offer by your company to do business with RCAC on the terms stated in your response. Should your company be selected, RCAC may incorporate any portions of your response into negotiated agreements.

In the event RCAC decides not to accept your proposal, you will be notified. RCAC reserves the right not to communicate the reasons of its decision.

1.8 RFP Schedule Key Action Dates

Date	Event
3/22/2022	Issuance of Request for Proposal
3/31/2022	Deadline for final questions
4/4/2022	Responses to questions posted
4/11/2022	Proposal due date
4/12/2022 to 4/14/2022	Proposal evaluation
4/15/2022	Possible interviews with final candidates to the RFP (9 to 11 am)
4/18/22	Respondents informed of final selection
5/6/22	Statement of work finalized
5/16/22	Contract issued

2.0 Proposal Documents/Information

2.1 Preparation Guidelines

Please include the following content in your proposal, in the order listed below.

Cover Letter: The proposal shall be submitted with a cover letter. The letter accompanying the proposal must provide the name, title, address, telephone number and signature of the individual(s) authorized to negotiate and bind the consultant contractually. The cover letter constitutes certification by the consultant, under the penalty of perjury that the consultant complies with nondiscrimination requirements of the state and federal government. An unsigned proposal or one signed by an individual unauthorized to bind the consultant may be rejected. The cover letter should contain a description of the relationship between the Respondent, subsidiaries, professional advisors, and other members of the professional consulting team.

Project Approach: Provide an introduction of the proposal, including a statement of understanding of the requested services. Describe your basic approach and methodology that would be used to provide labor compliance monitoring services. Identify any supplemental tasks or processes that you may see as necessary, or any special or innovative considerations that should be part of the services which may improve the monitoring and reporting process.

Team and Firm Experience: Provide a list of at least three (3) assignments within the last five (5) years in which the Respondent has performed services similar to those outlined in this solicitation. The list should include:

Name of client

Location (City and State)
Duration of assignment
Respondent's role in project
Reference contact information (phone number and email address)

Qualifications: Describe the firm's qualifications and experience to perform labor compliance monitoring services as it relates to the services outlined in this solicitation. The summary should include the following:

A description of the firm's qualifications and experience, mentioning specific, similar, or related work pertinent to various types of monitoring and reporting on projects similar to what would be expected when working for a public agency.

Identification of staff who would be assigned to do these monitoring and reporting assignments, include the proposed responsibilities. A brief résumé of staff who would provide these services, highlight special qualifications relevant to what could be included in the various projects. An organizational chart (org chart).

A description of the staff's present activities and his/her availability to accomplish these required services.

Identification of all staff that will be directly, indirectly, or periodically involved in any task, citing their responsibilities. This section should identify key personnel to be assigned to RCAC projects.

Identification of any subconsultants, resumes of key/participating staff proposed for these various project tasks, and how the tasks would be carried out.

A brief history of the firm.

Level of effort: Provide a preliminary sample scope of work for a large project (up to 250 construction personnel), a pipeline project (up to 30 construction personnel), and a small project (up to 10 construction personnel) similar to the services requested in this solicitation. Provide an estimate of monthly labor hours expended for labor compliance services separated by key personnel in your firm for each size of project. The labor hours shall be based upon standard task of work for similar type of activities based on experience with working for a public agency on these types of monitoring and reporting activities. No cost estimate is required with the submission of the proposal.

Fee Schedule: In a separate attachment (attachment _C___), provide a current fee schedule. Include at a minimum, staff who would be assigned to these monitoring and reporting assignments. Provide a standard labor rate schedule.

Insurance and Other Requirements: When requested, only the selected Consultant will be expected to provide Certificates of Insurance. For submittal purposes, provide a statement that the Respondent is able to meet standard liability insurance requirements.

Licensures/Certifications: Provide a list of licensures and/or certifications held by the Respondent.

Quality Assurance/Quality Control: Provide a brief description of in-place and proposed QA/QC practices applicable for these services.

2.2 Cost Proposal

Contract will be based on time and materials. Task budgets to include:

1. Set up for Labor compliance (P&P, forms)
2. Set up for Section 3
3. Project by size for labor
4. Project by size for Section 3
5. Additional monitoring budget
6. Technical Assistance and training budget

Respondent should provide hourly rate and number of hours required for each task, with a total cost per task.

2.3 Reimbursable Allowance

RCAC will include that a not-to-exceed allowance for general reimbursable expenses such as postage, mileage, reproduction, printing, data and telecommunications costs to be included in the agreement for service.

2.4 Required Statements and Documentation

- The firm will perform the services and adhere to the requirements described in this RFP.
- Statement of assurance that proposer will not substitute members of key personnel in designated team without approval by RCAC.
- Indicate the firm's ability and agreement to fulfill the indemnification and insurance requirements contained in the sample contract.
- Documentation of person authorized to bind the firm under a contract with RCAC.
- Documentation of firm not being on federal debarred list.

3.0 Assurance of Designated Project Team

Proposer shall assure that the designated project team, including sub-consultants, is used for the entirety of this project. Departure or reassignment of, or substitution for, any member of the designated project team or sub-consultants(s) shall not be made without the prior written approval of the RCAC.

4.0 General Terms and Conditions

Upon completion of the evaluation and recommendation for award, the selected firm will be required to execute a service agreement, a sample of which is included as Attachment B.

5.0 WBE/MBE Participation

It is the policy of RCAC to take positive steps to maximize the utilization of minority and women's business enterprises in all contract activity administered by them. The respondent will utilize best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority or women's business enterprise" means a business, at least 50% of which is owned by minority group members or women or, in the case of publicly owned businesses, at least 51% of the stock is owned by minority group members or women. For the purpose of this definition, minority group members are Black, Hispanics, Asians, Native Americans, Alaskans or Pacific Islanders.

6.0 Exceptions

Describe any and all proposed exceptions, alterations or amendments to the Scope of Work or other requirements of the RFP, including the Sample Standard Agreement (Attachment B).

7.0 Proposal Evaluation Criteria and Scoring Process

Only proposals received before the deadline, noted in the Key Action Dates/RFP Schedule, will be opened and scored.

At the time of proposal opening, each proposal will be checked for the presence or absence of required forms and documentation listed in the Proposal Checklist (Attachment A). Irregularities with Administrative Review documents may be waived. All waived items may be required before an award is made.

In addition, each proposal will be checked for conformance with the submission requirements in Part One of Proposal Checklist (Attachment A). Proposals that include all required documents and information in Proposal Checklist Part One will be provided to the Evaluation Team for review and scoring.

The RCAC Evaluation Team will be responsible for the review and evaluation of Bidder Proposals. RCAC may engage additional Subject Matter Experts (SMEs) during the process to assist the Evaluation Team in gaining a better understanding of financial, legal, contractual, or other issues. These individuals will not have voting privileges or responsibility for the evaluation process.

Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, will be rejected.

RCAC will use a ‘highest points’ methodology to determine which proposal is awarded. Proposals will be evaluated using a point system based on responsiveness to the RFP as follows:

The following evaluation criteria will be used to determine the most highly qualified firm(s).

Evaluation Criteria	Possible Points	
Understanding of the scope of work for labor compliance monitoring and reporting services.	10	
Familiarity with City, County, State and Federal Grant laws and requirements.	10	
Familiarity with Labor, Wage, Apprentice, DBE programs & Title VI requirements.	10	
Demonstrated professional skill and credentials.	25	
Related experience and references.	10	
Cost proposal.	15	
Quality of proposal.	20	
	Total Possible Points	100

Cost Proposal (Max. 15 points)

The following formula will be used for the award of cost points:

Lowest cost proposal is awarded the maximum cost points. Other proposals are awarded cost points based on the following calculation:

$$\text{Proposer's cost points} = \frac{\text{lowest cost proposal}}{\text{Proposer's cost proposal}} \times \text{maximum cost points}$$

Example: Lowest cost proposal = \$ 25,000

Proposer's cost proposal = \$40,000

Max. cost points = 15 points

$$\text{Proposer's cost points} = \frac{\$25,000}{\$ 40,000} \times 15 = 9.30\text{points}$$

8.0 Selection Procedure

8.1 Submittals and Reservation of Rights

- Submittals will be initially reviewed for responsiveness and then all responsible submittals will be reviewed and ranked by a selection committee in accordance with the above criteria. The firms(s) submitting the highest rated proposal(s) may be invited for interviews.
- RCAC reserves the right to make an award without further discussion of the submittal with the proposer. Therefore, the proposal should be submitted initially on the most favorable term that the firm or individual might propose.
- RCAC reserves the right to award a contract to the firm that presents the best qualifications and whose proposal best accomplishes the desired results at a reasonable cost, as determined by RCAC.
- RCAC will verify that selected proposer is not on federal debarred list, has all necessary licenses, is eligible to do business in California and has all necessary insurance in place.
- RCAC reserves the right to reject any or all proposals, or to waive minor irregularities in said proposals, or to negotiate with the successful firm.
- RCAC will notify all proposers whether or not they are selected for the subject work.
- Upon review, all documents submitted in response to this RFP will become the property of RCAC.
- RCAC Preserves the right to end, in its sole discretion, negotiations at any time with any and/or all Consultants. This RFP does not commit RCAC to enter into a contract, nor does it obligate it to pay any costs incurred in the preparation and submission of responses or in anticipation of a contract.
- RCAC will process any Disputes.

8.2 Agreement Execution and Performance

Performance shall start no later than the express date set by RCAC and the Contractor, after all approvals have been obtained and the agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, RCAC, upon five days written notice to the Contractor, reserves the right to terminate the agreement. In addition, the Contractor shall be liable to RCAC for the difference between Contractor's proposal price and the actual cost of performing work by another contractor.

All performance under the Agreement, final report with all reviews and approvals, shall be completed on or before the termination date of the Agreement.

8.2 Disputes Related to Proposal Process

Any dispute arising from the proposal process prior to the award of the contract must be submitted in writing to Cyndi Spencer, Chief Operating Officer, within ten (10) calendar days of the date of the recommendation award or notice of denial. The only grounds for an appeal that will be considered are that RCAC failed to follow the selection procedures specified in this RFP or that there has been a violation of conflict of interest, or violation of Federal or State law. RCAC will consider only those specific issues addressed in the written appeal. RCAC will make its determination within thirty (30) days of receipt and their decision shall be final with respect to the matters of fact.

8.3 Other Quality Attributes

Please include any other aspects not discussed above that you feel will add value to your proposal.

9.0 Proposal Check List

Attachment A

Proposal Check List

- ____ Attachment A Check List
- ____ Attachment B Sample Standard Agreement
- ____ Attachment C Cost Proposal
- ____ Attachment D Darfur Contracting Act
- ____ Attachment E Contractors Certification Clause
- ____ Attachment F California Civil Rights Laws Certification

- Exhibit A Flow-Down Conditions Agreement RCAC and HCD
- Exhibit B Flow-Down Provisions CDBG-NDR Terms and Conditions

10.0 Sample Standard Agreement

Attachment B

Sample Standard Agreement

Service Agreement

between

Rural Community Assistance Corporation

and

Consultant (Contractor)

This Service Agreement (Agreement) is entered into on XXXXXXXX, by and between Rural Community Assistance Corporation (RCAC), a nonprofit corporation, and _____ (Consultant).

I. Task Orders

Consultant shall provide the professional services (“Services”) as specified in authorized Task Order. Consultant shall commence, perform and complete such Services and be compensated by RCAC for such Services in accordance with authorized, signed Task Orders. Failure to perform the Services described in a signed Task Order shall be considered default, and RCAC may pursue all remedies hereunder.

II. Term

The term of Service shall be defined in authorized Task Orders.

III. Consultant Responsibilities

In addition to all other obligations contained herein, Consultant agrees:

- A. To furnish all material, equipment, labor and supplies in such quantities and of the proper quality to perform Services in a professional and timely manner;
- B. To proceed with diligence and promptness and hereby warrants that such Services shall be performed to the satisfaction of RCAC in accordance with the highest professional workmanship and service standards in the field;
- C. To comply, at Consultant's own expense, with the provisions of all state, local and federal laws, regulations, ordinances, requirements and codes which are applicable to the performance of the Services hereunder or to Consultant as an employer;
- D. That Consultant is an independent consultant and not the agent, employee or servant of RCAC, and that:
 - 1. Consultant does not have the authority to act for RCAC or to bind RCAC in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of RCAC;
 - 2. Consultant has and hereby retains full control of and supervision over the performance of Consultant obligations and full control over any persons employed by Consultant for performing the Services;
 - 3. Consultant shall satisfy all tax and other governmentally imposed responsibilities as a self-employed person and/or independent consultant including, but not limited to, payment of state, federal and social security taxes, unemployment taxes, workers' compensation (as applicable by law) and self-employment taxes. All sales taxes are the responsibility of the Consultant.

IV. Compensation

A. Payment

As compensation for satisfactory performance of the Agreement, RCAC shall pay the Consultant the amount set forth in the Task Order, subject to additions and deductions as provided for herein. The method for charging shall be as specifically set forth in authorized Task Orders. In no event shall that amount be exceeded, nor shall RCAC be liable for payment in excess of this amount unless RCAC authorizes an increase in writing.

Consultant shall notify RCAC in writing if Consultant has reason to believe that expenses incurred within the next 60 days, when added to costs previously incurred, will exceed the authorized amount specified in the Task Order.

B. Request for Payment

Consultant shall submit a Request for Payment form (Attachment B) for all Services performed. Email Payment requests to RCAC, Cyndi Spencer at cspencer@rcac.org.

In the event that RCAC disputes any payment request item, RCAC will notify Consultant within five working days of receipt of the payment request. RCAC will approve payment of non-

disputed items. RCAC and Consultant will proceed to negotiate and then arbitrate the disputed items as specified elsewhere in this Agreement.

V. Indemnification

Consultant shall indemnify and hold RCAC its agents and employees harmless against any and all liabilities, including attorney fees and other legal expense, arising directly or indirectly from performance of Services or the acts of Consultant, its agents and employees.

VI. Insurance

- A. Consultant shall maintain standard Workers' Compensation as required by law in state where service is performed.
- B. Consultant is responsible for any and all Professional and General Liability Insurance prudent for their conduct of consulting services.

VII. Notice

Any notice given hereunder by either party shall be in writing and deemed given when sent by certified mail.

- A. Notices to RCAC shall be addressed to:
Rural Community Assistance Corporation, Grants and Contracts Administration, attention Cyndi Spencer, Assistant Director,
3120 Freeboard Drive, Suite 201, West Sacramento, CA 95691
- B. Notices to Consultant shall be addressed to:

If either party changes its address during the term herein, it shall advise the other party in writing and any notice thereafter shall be sent by certified mail to the new address.

VIII. Termination

RCAC or Consultant agrees to not terminate this Agreement during the Agreement period except for good cause. Either party may terminate this agreement by providing a 30-day written notice.

IX. Authority

Each party has full power and authority to enter into and perform this Agreement. The person signing the Agreement on behalf of each has been properly authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read this Agreement, understands it and agrees to be bound by it.

X. Attachments

The following Attachments are attached hereto and by reference incorporated herein:

Attachment A: Task Order

Attachment B: RCAC financial forms

Attachment C: Representations & Certifications forms

XI. Severability

If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement. Rather, the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the party shall be construed and enforced accordingly, to effectuate the essential intent and purposes of this Agreement.

XII. Governing Law

This Agreement shall be construed and interpreted in accordance with, and its performance governed by, the laws of the State of California.

XIII. Entire Agreement, Amendments and Modification

This Agreement, including Attachments A, B and C, constitutes the entire Agreement between RCAC and Consultant with respect to the subject matter of this Agreement and these provisions shall supersede or replace any conflicting or additional provisions which may be contained in any other writing, document or the like. In the event of a conflict between any provisions appearing in any other writing and in this Agreement, the provision of this Agreement shall be controlling. This Agreement may not be modified or amended except in writing with the same degree of formality with which this Agreement has been executed.

XVI. Arbitration

The parties will attempt to resolve any controversy or claim arising out of or related to the Agreement, but if the parties fail to resolve an issue, the controversy or claim or breach of contract shall be settled by arbitration in Sacramento, California by the American Arbitration Association in accordance with its applicable rules; and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

In Witness Whereof, the parties have caused their duly authorized representatives to sign this Service Agreement as of the date first stated above.

Rural Community Assistance Corporation

3120 Freeboard Drive, Suite 201

West Sacramento, CA 95691

916/447-2854; 916/447-2878 fax

David Ebenezer, Chief Financial Officer

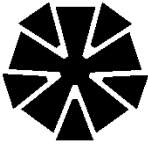
Consultant Signature

Name/Title

Date

Date

Tax ID Number



Rural Community Assistance Corporation

Task Order Form

Task Order: XXX_XXX	Performance Period: XXX-XXX	
Issued to:	Contact/Telephone no.:	
Issued by: Rural Community Assistance Corporation 3120 Freeboard Drive, Suite 201 West Sacramento, CA 95691	Contact/telephone no.:	
Scope of Work: <ul style="list-style-type: none">• Insert Scope of Work		
Deliverables including Reporting		
Compensation: <ul style="list-style-type: none">• RCAC will pay consultant an amount not to exceed ____ for the successful completion of all tasks. The amount “not to exceed” is calculated based on \$ ____ hour rate for ____ hours, and up to ____ for travel expenses. Travel expenditures must be supported by receipts, except “meals and incidentals” which will be paid based on Federal Government travel per diem. All travel must comply with Federal Government and RCAC travel policies including hotel per-diem limitations.• Consultant to invoice monthly and will provide a report of activities on each payment request that will describe all work for which invoice pertains to.• All requests for payments must reference _____. Email payment requests to Cyndi Spencer at cspencer@rcac.org or if by mail, RCAC, Attn: GCA, 3120 Freeboard Drive, Suite 201, West Sacramento, CA 95691.		
Penalties		
All terms and conditions included in the Service Agreement are applicable to this Task Order.		
Signature for RCAC:	Type name and title: David Ebenezer, Chief Financial Officer	Date:
Signature for Consultant Name:	Type name and title:	Date:

11.0 Cost Proposal Form

Attachment C

Cost Proposal Form

Task 1	Name/Title	HOURS	HOURLY RATE	TOTAL
Set up for Labor Compliance	<i>(Insert rows as needed)</i>			
	Travel*	N/A	N/A	Included
			Total Proposal \$	

Task 2	Name/Title	HOURS	HOURLY RATE	TOTAL
Set up for Section 3	<i>(Insert rows as needed)</i>			
	Travel*	N/A	N/A	Included
			Total Proposal \$	

Task 3	Name/Title	HOURS	HOURLY RATE	TOTAL
Project by size for Labor Compliance	<i>(Insert rows as needed)</i>			
	Travel*	N/A	N/A	Included
			Total Proposal \$	

Task 4	Name/Title	HOURS	HOURLY RATE	TOTAL
Project by size for Section 3	<i>(Insert rows as needed)</i>			
	Travel*	N/A	N/A	Included
			Total Proposal \$	

Task 5	Name/Title	HOURS	HOURLY RATE	TOTAL
Additional Monitoring	<i>(Insert rows as needed)</i>			
	Travel*	N/A	N/A	Included
			Total Proposal \$	

Task 6	Name/Title	HOURS	HOURLY RATE	TOTAL
Technical assistance and training	<i>(Insert rows as needed)</i>			
	Travel*	N/A	N/A	Included
			Total Proposal \$	

12.0 Darfur Contracting Act

ATTACHMENT D

Darfur Contracting Act

Effective January 1, 2009, procurements for Non-Information Technology (Non-IT) goods or services must address the requirements of this Act. The Act is intended to preclude State agencies generally from contracting with *SCRUTINIZED* companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Printed Name and Title of Person Initialing (for Options 1 or 2)</i>	

1. _____ We do not currently have, and have not had within the previous three years, business
Initials activities or other operations outside of the United States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code section 10476, but
Initials we have received written permission from the Department of General Services (DGS)
to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A
copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years, business activities
Initials or other operations outside of the United States, but we certify below that we are not a
scrutinized+ certification company below as defined in Public Contract Code
section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

YOUR BID OR PROPOSAL MAY BE DISQUALIFIED UNLESS IT INCLUDES THIS FORM WITH EITHER PARAGRAPH # 1 OR # 2 INITIALED OR PARAGRAPH # 3 INITIALED AND CERTIFIED.

13.0 Contractors Certification Clauses

ATTACHMENT E

CONTRACTOR’S CERTIFICATION CLAUSES (CCC 04/2017)

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweat free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date, he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. MERGER CLAUSE: This statement of the agreement between the parties hereto constitutes the complete, exclusive, and fully integrated statement of their agreement in connection with the subject matter of this Agreement. As such, this Agreement supersedes all prior and contemporaneous discussions and understandings between the parties and is the sole expression of their agreement.

6. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

8. POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

15.0 California Civil Rights Laws Certifications

ATTACHMENT F

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

- 1. **CALIFORNIA CIVIL RIGHTS LAWS**: For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
- 2. **EMPLOYER DISCRIMINATORY POLICIES**: For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <i>Proposer/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	

16.0 HCD Additional Contract Terms

Exhibit A

Flow-Down Conditions as a Result of the agreement between RCAC and HCD

HCD ADDITIONAL CONTRACT TERMS

1. Interpretation

In the interpretation of this Agreement, any inconsistencies between the State of California General Terms and Conditions (GTC - 04/2017) and the terms of this Agreement and exhibits or attachments shall be resolved in favor of the GTC – 04/2017.

2. Contract Manager

RCAC may change the Contract Manager by notice given to the Contractor at any time by the Director of RCAC or by his/her designee.

3. Publications and Reports

- a. Unless otherwise provided for in this Agreement, Contractor shall:
 - i. Incorporate any comments or revisions required by RCAC or the State into any publication or report and shall not publish any material until it receives final State approval.
 - ii. Furnish two copies of each publication and report required plus one reproducible original.
- b. Illustrations, maps and graphs in summaries and publications and reports shall be developed in a manner which allows the complete illustration to be contained on a single 8-1/2 by 11 page unless specific written approval is given to the contrary.
- c. Graphs, illustrations and printed materials shall be printed in a single color throughout each publication unless prior State approval is granted.
- d. Contractor's name shall appear only on the cover and title page of publications and reports and summaries. Covers and title pages will read as follows:

RURAL COMMUNITY ASSISTANCE CORPORATION

BIOMASS UTILIZATION FUND

**TITLE OF PUBLICATION
BY (CONTRACTOR)**

- e. RCAC and the State reserve the right to use and reproduce all publications and reports and data produced and delivered pursuant to this Agreement.
- f. If the publication and/or report are prepared by nonemployees of HCD, it shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the report in a separate section of the report (Government Code Section 7550).

4. Progress Reports

Except as otherwise specified by RCAC, Contractor shall provide for a progress report in writing, or orally if approved by the Contract Manager, at least once a month, no less than quarterly. This progress report shall include, but not be limited to, a statement that the Contractor is or is not on schedule, any pertinent reports or interim findings, and an opportunity to discuss any difficulties or special problems so that remedies can be developed as soon as possible.

5. Presentation

Upon request, Contractor shall meet with RCAC to present any findings, conclusions and recommendations required per this Agreement.

6. Report Delivery

All reports, or other communications except invoices, are to be delivered to the Contract Manager, as outlined in Exhibit A.3.

7. BUF Program Staff

BUF Program staff shall be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Contract Manager. In this regard, BUF Program staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.

8. Confidentiality of Data and Documents

- a. Contractor will not disclose data or documents or disseminate the contents of the final or any preliminary report without the express prior permission of the Contract Manager.
- b. Permission to disclose information or documents on one occasion, or public hearings held by HCD relating to the same, shall not authorize Contractor to further disclose such information or documents on any other occasion.
- c. Contractor will not comment publicly to the press or any other media regarding its data or documents, or RCAC's actions on the same, except to RCAC staff, Contractor's

own personnel involved in the performance of this Agreement, or at a public hearing, or in response to questions from a legislative committee.

- d. If requested by RCAC, the Contractor shall require each of its employees or officers, who will be involved in the performance of this Agreement, to agree to the above terms in a form to be approved by RCAC and shall supply RCAC with evidence thereof.
- e. To the extent that RCAC has approved the use of subcontractors in this Agreement, Contractor shall include in its agreements with each approved subcontractor the foregoing provisions related to the confidentiality of data and the non-disclosure of the same.
- f. 90 days after any data or documents submitted has become a part of the public records of the State, Contractor may, if it wishes to do so at its own expense and upon approval by the Contract Manager, publish or utilize the same but shall include the following legend:

Legal Notice

This report was prepared as an account of work sponsored by RCAC and HCD but does not necessarily represent the views of RCAC nor HCD or any of its employees except to the extent, if any, that it has formally been approved by RCAC and HCD. For information regarding any such action, communicate directly with RCAC at 3120 Freeboard Drive suite 201, West, California, 91691. Neither RCAC, HCD nor the State of California, nor any officer or employee thereof, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document, nor does any party represent that use of the data contained herein would not infringe upon privately owned rights.

9. Provisions Relating to Data

- a. "Data" as used in this Agreement means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may be, for example, document research, experimental, developmental or engineering work; or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical models, collections, extrapolations of data or information, etc. It may be in machine form, punched cards, magnetic tape, computer printouts, or retained in computer memory.
- b. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Agreement and which has been reasonably demonstrated as being of a proprietary force and effect at the time this Agreement is commenced.

- c. "Generated data" is that data which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Agreement at State expense, together with complete documentation thereof, shall be treated in the same manner as generated data.
- d. "Deliverable data" is that data which under terms of this Agreement is required to be delivered to RCAC. Such data shall be property of RCAC.
- e. "Generated data" shall be the property of the RCAC unless and only to the extent that it is specifically provided otherwise herein.
- f. As to generated data which is reserved to the Contractor by express terms and as to any preexisting or proprietary data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced in evidence in a court of competent jurisdiction at Contractor's own expense for a period of not less than three years after receipt by RCAC of the final report or termination of this Agreement and any and all amendments hereto, or for three years after the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later.
- g. Prior to the expiration of such time and before changing the form of or destroying any such data, Contractor shall notify RCAC of any such contemplated action. RCAC may within 30 days after said notification determine whether it desires said data to be further preserved and, if RCAC elects, the expense of further preserving said data shall be paid for by RCAC. Contractor agrees RCAC shall have unrestricted reasonable access to the same during said three-year period and throughout the time during which said data is preserved in accordance with this Agreement, and Contractor agrees to use best efforts to furnish competent witnesses or identify such competent witnesses to testify in any court of law regarding said data.

10. Amendments

Amendments to this Agreement are allowed and shall follow the rules and guidelines outlined in the RCAC Contracting Policy, including but not limited to the following:

- The time for performance of the tasks and items within the budget may be changed with prior written approval of the Contract Manager. However, the term of this Agreement or contract amount may only be changed by formal amendment.

11. Approval of Product

Each product to be approved under this Agreement shall be approved by the Contract Manager. RCAC's determination as to satisfactory work shall be final absent fraud, mistake or arbitrariness.

12. Substitutions

Contractor's key personnel as indicated in its proposal may not be substituted without prior Contract Manager's written approval. Notice to either party may be given by first class mail properly addressed, postage fully prepaid, to the address beneath the name of each respective party. Such notice shall be effective when received as indicated by post office records or if deemed undeliverable by post office, such notice shall be effective nevertheless 15 days after mailing. Alternatively, notice may be given by personal delivery by any means whatsoever to the party and such notice shall be deemed effective when delivered.

13. Waiver

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. Failure of RCAC to enforce at any time the provisions of this Agreement or require at any time performance by Contractor of any provisions, shall in no way be construed to be a waiver of such provisions not to affect the validity of this Agreement or the right of RCAC to enforce said provisions.

14. Agreement is Complete

Other than as specified herein, no document or communication passing between the parties hereto shall be deemed a part of this Agreement.

15. Captions

The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.

16. Public Hearings

If public hearings on the subject matter dealt with in this Agreement are held within one year from this Agreement's expiration date, the Contractor shall make available to testify the personnel assigned to this Agreement at the hourly rates specified in the Contractor's proposed budget. RCAC will reimburse Contractor for travel of said personnel at the contract rates for such testimony, as may be requested by the RCAC or the State.

17. Force Majeure

"Force Majeure" is an unforeseeable event outside of a party's reasonable control which prevents or delays performance of that party's obligations under this Agreement. Such event does not include the normal risks a party assumes when it enters a contract. A Force Majeure event is a natural disaster such as an earthquake, flood, hurricane, pandemic, an Act of God, act of war, act of public enemies of this state or of the United States, or other similar event.

Force Majeure also includes actions or measures taken by any governmental authority, including executive orders, public health orders, other governmental orders, laws,

regulations, or other government actions taken in response to a “Force Majeure” event, such as a quarantine or other restriction which prevents or delays the performance of a party’s obligations under this Agreement.

The party asserting “Force Majeure” must give notice to the other party to this Agreement within ten (10) days of the occurrence of the Force Majeure event, notice to be given in accordance with the notice provisions of this Agreement. Such notice must include a description of the Force Majeure event, how said event has prevented or delayed the party’s ability to perform its obligations under this Agreement, a description of reasonable measures the asserting party proposes to take to resume performance of its obligations under this Agreement, and a date by which the party anticipates it will resume performance of its obligations.

18. Permits and Licenses

Contractor shall procure and keep in full force and effect during the term of this Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Agreement and give all notices necessary and incident to the lawful prosecution of the work. Contractor shall keep informed of, observe, comply with, and cause all of its agents and employees to observe and comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Agreement. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify the State in writing.

19. Litigation

RCAC and the State, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the State or its officers or employees for which the contractor must provide indemnification under this Agreement. To the extent permitted by law, RCAC and the State shall authorize the Contractor or its insurer to defend such claims, suits, or actions and shall provide it or its insurer, at the Contractor’s expense, information and assistance both necessary and available for such defense. The failure of RCAC and the State to give such notice, information, authorization or assistance, shall not relieve the Contractor of its indemnification obligations. The Contractor shall immediately notify RCAC and the State of any claim or action against it, which affects or may affect this Agreement, the terms and conditions hereunder, or RCAC and the State, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of RCAC and the State.

20. Insurance Requirements

- a. The Contractor shall not commence performance under this Agreement until the Contractor has provided RCAC with a certificate of insurance stating that there is liability insurance presently in effect for the Contractor with a Combined Single Limit (CSL) of not less than \$1M per occurrence and the following:
 - 1) Commercial General Liability: \$1M per occurrence bodily injury, property damage and products and completed operations, \$2M general aggregate.

- 2) Auto Liability: \$1M per occurrence bodily injury and property damage liability.
- 3) Umbrella Liability: \$3M each occurrence.
- 4) Worker's Compensation Liability: \$1M per each accident.
- 5) The certificate holder should be:

Rural Community Assistance Corporation
3120 Freeboard Drive Suite 201
West Sacramento CA 95691

- 6) Description of Operations should read:

The certificate of insurance must include the following provision: *RCAC, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for RCAC and HCD under this contract.*

- 7) The Contractor shall provide written notice to RCAC within two (2) business days of any cancellation, non-renewal, or material change that affects required insurance coverage.

21. Severability

If any provision of this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this Agreement and remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are and shall be deemed to be severable.

22. Disputes

- A. Except as otherwise provided in this Agreement, any dispute arising under or relating to the performance of this Agreement, which is not disposed of by mutual agreement of all parties shall be decided via a two-tier resolution process. First, the parties with a dispute will present their dispute documentation to the Contract Manager for review and resolution. If the dispute cannot be resolved by the Contract Manager, then it will be presented to RCACs designated Executive staff. The decision of the Executive staff shall be final, conclusive and binding on both parties.

- B. Contractor shall continue to perform its obligations under this Agreement during any dispute, unless RCAC directs otherwise.
- C. In the event of any litigation, proceeding or dispute arising out of this Agreement or the need to interpret any language or provision of this Agreement, California law will apply, and California courts will decide all such matters as the exclusive forum for such matters.

23. Suspension or Termination

a. Suspension of Work:

The Director or Acting Director of RCAC, or his/her designee, by written order may suspend the work of the Contractor, or any portion thereof, for any period up to ninety (90) days, as the Director or his/her designee may deem necessary and for any reason. Any equitable adjustment shall be made in the delivery schedule or contract price, or both, and this Agreement shall be modified in writing accordingly if the stop work order results in an increase in the time required for, or in the Contractor's cost properly allowable to, the performance of any part of this Agreement. In any event, the final total of additional payments shall not exceed the sum provided for in this Agreement unless this Agreement is amended in writing in advance.

b. Termination at Option of RCAC:

This Agreement may be terminated at any time, in whole or in part, upon ten (10) calendar day's written notice by the RCAC, for any reason. Upon receipt of a termination notice, Contractor shall promptly discontinue all services affected unless the notice specifies otherwise.

In the event RCAC terminates all or a portion of this Agreement for any reason, it is understood that RCAC will provide payment to Contractor for satisfactory services rendered and reasonable expenses incurred prior to the termination of this Agreement, and for reasonable expenses incurred by the Contractor prior to said termination, which are not included in charges for services rendered prior to termination, and which could not by reasonable efforts of Contractor have been avoided, but not in excess of the maximum contract amount.

c. Termination for Default:

The Director or his/her designee may, by three-day written notice to the Contractor, and without any prejudice to RCAC's other rights or remedies, terminate this Agreement in whole or in part because of the failure of the Contractor to fulfill its contract obligations. Upon receipt of any notice terminating this Agreement in whole or in part, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise); and (2) deliver to the Contract

Manager all data, reports, summaries, and such other information and materials as may have been accumulated by the Contractor in performing under this Agreement, whether completed or in progress. In such an event, the RCAC shall pay the Contractor only the reasonable values of the services rendered to date. At its sole discretion, RCAC may offer an opportunity to cure any breach(es) prior to terminating for a breach.

d. Termination Due to Bankruptcy:

In the event proceedings in bankruptcy are commenced by or against the Contractor, or the Contractor is adjudged bankrupt, or a receiver is appointed, the Contractor shall notify RCAC immediately in writing and RCAC may terminate this Agreement and all further rights and obligations by giving three (3) days' notice in writing in the manner specified herein.

e. Convenience:

If after notice of termination for failure to fulfill contract obligations, it is determined that the Contractor had not so failed, the termination shall be deemed to have been made for the convenience of the RCAC.

f. Cumulative Remedies:

The rights and remedies of RCAC provided in this Agreement are in addition to any other rights and remedies provided by law.

g. Completion:

In the event of termination for default, RCAC reserves the right to take over and complete the work by contract or other means. In such case, Contractor is liable to RCAC for any additional costs incurred by RCAC to complete the work.

24. Potential Subcontractors

- a. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. Contractor agrees to be fully responsible to RCAC for the acts and omissions of its subcontractors and persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor.
- b. No work shall be subcontracted without the prior written approval of RCAC. Upon the termination of any subcontract, RCAC shall be notified immediately. Any subcontract shall include all the relevant terms and conditions of this Agreement and its attachments in addition to any other relevant terms and conditions.
- c. Contractor's obligation to pay its subcontractors is an independent obligation from RCAC's obligation to make payments to the Contractor. As a result, RCAC shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor. Contractor represents that it has or shall secure at its own expense, all staff required

to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

- d. When subcontractors are used, RCAC will pay the Contractor who, in turn, will be responsible for paying the subcontractor directly. Subcontractor fees and costs are included in the "total" price of this Agreement.
- e. If subcontractor(s) fails to execute a portion of the work in a satisfactory manner, the Contractor shall immediately remove the subcontractor, upon written request from the Contract Manager. Said subcontractor may not be employed for another portion of this Agreement. The Contract Manager will not entertain requests to arbitrate disputes between the Contractor and subcontractor concerning performance of their contract duties.
- f. Contractor shall not substitute a subcontractor in place of another without prior notification and written approval from the Contract Manager. All requests to substitute a subcontractor must be submitted in writing to the Contract Manager, along with documentation to support the substitution.

17.0 CDBG-NDR Terms and Conditions

Exhibit B

Flow-down provisions as a result of the Agreement between RCAC and HCD

CDBG-NDR TERMS AND CONDITIONS

1. **Intentionally Blank**

2. **Required Dun and Bradstreet DUNS Number**

Prior to executing the Agreement, Contractor shall provide Contract Manager with the current DUNS number for their company and any subcontractors. HUD requires all grantees, state recipients, subrecipients and contractors to provide DUNS numbers for their agency.

3. **Debarment and Suspension**

Per Executive Orders 12549 and 12689 and 2 CFR 180.220, a contract award must not be made to parties listed on the government wide exclusion System for Award Management (SAM). Prior to award of any contracts or subcontracts under this Agreement, contractors and subcontractors will have their debarred status checked on the government wide exclusions in the SAM.

4. **Required Federal Language from 2 CFR Part 200 Appendix II**

The Department is required to have this language in all CDBG agreements. The Department is also requiring all other state agencies, state recipients and subrecipients who are using CDBG funding to have this language in their agreements.

- a. Remedies: Contracts for more than the simplified acquisition threshold (currently \$150,000) must address administrative, contractual, or legal remedies

in instances where contractors violate or breach contract terms and provide for such sanction and penalties as appropriate.

b. Termination for Cause and Convenience

- c. Non-Discrimination Language from 41 CFR Part 60-1.4(b):
Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

d. Clean Air Act and the Federal Water Pollution Control Act:

This Agreement is subject to the requirements of the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Any contracts or subgrants made under this agreement, in excess of \$150,000 must contain this provision. Contractor agrees to comply with all applicable standards, orders or regulations issues pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Any violations of this act will be reported to the Department of Housing and Urban Development and the Regional Office of the Environmental Protection Agency (EPA).

e. Byrd Anti-Lobbying Amendment

Per the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) -- All contractors that apply or bid for an award exceeding \$100,000 must file the required certification. The Contractor must certify 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 contract award covered by the above referenced Amendment. The Contractor must also disclose any lobbying with non-Federal fund that take place in connection with obtaining any Federal award.

f. Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent

with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

g. Rights to Inventions Made Under a Contract or Agreement

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of recipient or subrecipient must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulation issued by the awarding agency.

5. Conflict of Interest of Members, Officers, or Employees of Contractors, Members of Local Governing Body, or Other Public Officials

Pursuant to 24 CFR 570.489(g) and (h), 2 CFR Part 570, and 24 CFR 85.36(b)(3), no member, officer, or employee of the Jurisdiction, or its designees or agents, no member of the Governing Body of the locality in which the program is situated, and no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter. The Jurisdiction shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this Section. It is further required that this stipulation be included in all subcontracts to this contract.

6. Conflict of Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. The Jurisdiction shall report all perceived or actual conflicts of interest cases to the State for review before financial benefits are given.

7. Performance Measures and Penalties for Biomass Utilization Facility (BUF)

- a. Per FR-5936-N-01, all agreements that are paid for with CDBG-NDR funding must have performance measures and penalties. Contractor is responsible for SOW administration and completion of final products, so these performance measures apply to them as well as to other implementation agencies under this agreement. If there are circumstances that arise in which performance measures cannot be met, then Contractor must work closely with RCAC to ensure the BUF project environmental reviews proceed to completion within the timeframe agreed upon in this Agreement. The following performance measures are included in this Agreement to ensure BUF SOW is completed in a timely fashion:
- i. No later than 30 days after execution of this Agreement, in order to carry out the implementation of the BUF Project environmental reviews, the Contractor will provide a specific work plan with timeline for providing deliverables and have a kickoff meeting with all parties coordinating these efforts. Contractor will assist in determining what agency is best suited to be CEQA Lead.
 - ii. No later than 45 days after execution of this Agreement, the Contractor shall have all materials needed for HCD make a determination of impact of the project on historic and cultural resources and for HDC to submit a letter to SHPO requesting their concurrence with HCD's determination.
 - iii. Ninety (90) days after execution of this agreement, all regulatory agencies which are required to be consulted will be contacted and provided Project aggregate and cumulative impact information with HCD determination of impact for their concurrence.
 - iv. No later than three (3) months after execution of the RCAC agreement, Grantee will take steps to ensure that RCAC shall release a Request for Qualifications (RFQ) to develop a list of qualified consultants that will assist with project environmental review work.
 - v. No later than two (2) months after execution of the RCAC Agreement, Grantee will take steps to ensure that RCAC shall develop, with input from SNC and HCD, and submit to the Department the Biomass Utilization Facility Program Manual.
- b. Penalties: If any BUF Project environmental review performance measure listed above is not met, as a penalty (within 30 days of being missed), Contractor shall work with SNC to submit to the RCAC a mitigation plan specifying the reason for the delay, the actions to be taken to complete the task that is the subject of the missed deadline, and the date by which the completion of said task deadline will occur. RCAC reserves the right to withhold further payment until such time as a satisfactory mitigation plan is approved. Furthermore, RCAC shall reserve all rights and remedies available to it on account of a default by Contractor under the terms of this Agreement.

8. Compliance with State and Federal Laws and Regulations

The Contractor is responsible for compliance with all applicable Federal or State laws, Executive Orders, and regulations of the CDBG-NDR program.

- a. The Contractor agrees to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the contractor, its subcontractors, and any other State provisions as set forth in this Agreement.
- b. The Contractor agrees to comply with all federal laws and regulations applicable to the CDBG Program, NDRC appropriation and to the activity(ies), and with any other federal provisions as set forth in this Agreement.

9. Access to Records and Record Retention

Access by RCAC, HCD or other state agency or sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

All records must be retained by the Contractor for no less than three years after receiving final payment from RCAC and all other pending matters are closed.

10. Energy Policy and Conservation Act

This Agreement is subject to mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

11. Use of Funds

The Appropriations Act made funds available for necessary expenses related to disaster relief and long-term recovery, recovery of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. The Appropriations Act requires funds to be used only for specific disaster-related activities and administration of those activities.

12. Applicable Statutory and Regulatory Requirements

- a. All recipients of CDBG-NDR grants are subject to: (1) the requirements of the Appropriations Act; (2) the Fiscal Year (FY) 2014 Notice of Funding Availability for National Disaster Resilience Competition (CDBG-NDR NOFA), including all appendices and incorporated portions of the FY 2014 General Section (as amended); and (3) applicable regulations governing the CDBG program at 24 CFR part 570, unless modified by waivers and alternative requirements published by HUD in this NOFA or other applicable Federal Register Notices.
- b. Federal Register FR-5936-N-01, contains the requirements applicable to Community Development Block Grant (CDBG) funds made available by the Disaster Relief Appropriations Act, 2013 (Public Law 113-2, approved January 29, 2013) (**Appropriations Act**) and awarded under the National Disaster Resilience Competition as CDBG National Disaster Resilience (CDBG-NDR) grants.
- c. Note that the Office of Management and Budget (OMB) recently published Guidance for Uniform Administrative Requirements 2 CFR Part 200. These Cost Principles and Audit Requirements for Federal Awards will update 24 CFR parts 84 and 85 and supersede the Circulars listed in the Technical Correction to the FY 2014 General Section. HUD has published conforming changes to its CDBG program regulations on December 7, 2015 (80 FR 75931), that updated CDBG program regulations to reflect references to appropriate sections of 2 CFR part 200. The effective date of HUD's conforming rule is January 6, 2016, and this Agreement is subject to all these updated publications and rules.