Ho-Chunk Nation

INVITATION TO BID
BID Number: HCGWDHVACDWS2019
Bid Title: PROVIDE HVAC SERVICES & REPAIR FOR HO-CHUNK GAMING WISCONSIN-DELLS

This Invitation to Bid (ITB) is for the purpose of contracting with a qualified firm to provide the Ho-Chunk Nation with HVAC SERVICES & REPAIR FOR HO-CHUNK GAMING WISCONSIN DELLS subject to satisfactory performance, continuing need, and availability of funding, as outlined within this document. All requirements are as per specifications enclosed herein.

BID DUE DATE: December 5, 2019 at 2:00pm (CST)

General Requirement: This is an invitation for competitively sealed bids (see attached). Bids will be opened privately and read aloud at the date and time specified above. **One (1) original and two (2) copies of the complete bid are to be submitted.**

Bidder Info:

Name: _____

Address: _____

_____

Telephone: _____

Facsimile/Email: _____

Submit Bid to:
Ho-Chunk Nation
Treasury Department
Attn: Procurement Dept.
W9814 Airport Road
Black River Falls, WI 54615

Contact Person:
Dakota Walton-Smith
Procurement Agent
Dakota.walton-smith@ho-chunk.com
800-779-2873 Ext. 1243

Schedule of Events

Release of Bid on Website	November 8, 2019 by 4:00PM (CST)
Deadline for Questions	November 14, 2019 by 2:00PM (CST)
Addendum Posting of Answers to Questions	November 22, 2019 by 4:00PM (CST)
Bid Due Date and Time	December 5, 2019 at 2:00pm (CST)

Bidders should consult the website daily https://ho-chunknation.com/home/government/executive-department-directory/treasury/procurement/ **for Bid Addendum, clarifications, schedule changes or other important information.**

Vendor Certification

We agree to furnish and deliver any and all of the deliverables and services named in the attached Invitation to Bid (ITB)

It is understood and agreed that this bid constitutes an offer, which when accepted in writing by the Ho-Chunk Nation is subject to the terms and conditions of such acceptance and will constitute a valid and binding contract between the undersigned and the Ho-Chunk Nation.

It is understood and agreed that we have read the Ho-Chunk Nation's specifications shown or referenced in the bid and that this bid is made in accordance with the provisions of such specifications. By our written signature on this bid, we guarantee and certify that all items included in this bid meet or exceed any and all such specifications.

We verify that all information contained in this bid is truthful to the best of our knowledge and belief. We further certify that we are duly authorized to submit this bid on behalf of the firm and that the firm is ready, willing and able to perform or deliver if awarded the contract.

The laws of the Ho-Chunk Nation will govern any agreement relating to the provision of goods and services contemplated by this bid. In addition, the service provider under such an agreement will comply with all applicable laws, regulations, and policies of the Ho-Chunk Nation.

We agree that our bid will remain firm for a period of up to 120 days in order to allow the Ho-Chunk Nation adequate time to evaluate the qualifications submitted.

MANDATORY PAGE

BID SIGNATURE AND CERTIFICATION (must be signed and returned with bid)

I/We certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. I/We understand collusive proposing is a violation of State and Federal law. I/We certify that we have not been barred from contracting with a unit of Local, State, Federal, or Tribal Government. No officer, employee or agent of the Ho-Chunk Nation or any other Bidder has interest in said bid and that the undersigned executed this Bidder's Certification with full knowledge and understating of the matters therein contained and was duly authorized to do so. I/We agree to all conditions of the bid and certify that I/We am/are authorized to sign this bid for the Bidder.

**State of Incorporation _____
Individual – Partnership – Company – Corporation (Circle One)

Federal Tax Identification Number (FEIN) _____

_____
(Business Name)

_____
(Business Address)

_____
(City, State, and Zip Code)

_____
(By Printed Name and Signature) (Title)

_____
(Witness Signature) (Title)

_____
(Telephone No) (Email)

_____
(Date)

MANDATORY PAGE

BID FORM

The following required services/items shall be provided according to the solicitation conditions contained herein.

PRICING INFORMATION:

SECTION I—ORIGINAL YEAR ONE PRICING

Standard Hourly Rate: $_____

Overtime Hourly Rate: $_____

List the hourly classifications and rates required for this service (Attach Additional Sheets if necessary):

_____

_____

_____

% of markup over list pricing_____

STANDARD RESPONSE TIME AFTER NOTIFICATION_____

STANDARD WARRANTY PERIOD_____

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SECTION II—OPTIONAL YEAR TWO PRICING

Standard Hourly Rate: $_____

Overtime Hourly Rate: $_____

List the hourly classifications and rates required for this service (Attach Additional Sheets if necessary):

_____

_____

_____

% of markup over list pricing_____

STANDARD RESPONSE TIME AFTER NOTIFICATION_____

STANDARD WARRANTY PERIOD_____

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SECTION III—ORIGINAL YEAR ONE EMERGENCY PRICING

Standard Hourly Rate: $_____

Overtime Hourly Rate: $_____

List the hourly classifications and rates required for this service (Attach Additional Sheets if necessary):

_____

_____

_____

% of markup over list pricing_____

STANDARD RESPONSE TIME AFTER NOTIFICATION_____

STANDARD WARRANTY PERIOD_____

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SECTION IV—OPTIONAL YEAR TWO EMERGENCY PRICING

Standard Hourly Rate: $_____

Overtime Hourly Rate: $_____

List the hourly classifications and rates required for this service (Attach Additional Sheets if necessary):

_____

_____

_____

% of markup over list pricing_____

STANDARD RESPONSE TIME AFTER NOTIFICATION_____

STANDARD WARRANTY PERIOD_____

Return the following with your bid. If Bidder fails to provide with their bid, their bid may be considered non-responsive and will not be considered.

- W-9 Form
- Certificate of Insurance
- Acknowledgment of any Addenda
- All Mandatory Pages Contained Herein

MANDATORY PAGE

REFERENCES

Please list three (3) references that you have done similar work, service or supplied similar products to within the last twelve (12) months.

Entity: _____
Address: _____
_____
_____
Contact Name: _____
Telephone Number: _____
Email: _____

Entity: _____
Address: _____
_____
_____
Contact Name: _____
Telephone Number: _____
Email: _____

Entity: _____
Address: _____
_____
_____
Contact Name: _____
Telephone Number: _____
Email: _____

MANDATORY PAGE

ACKNOWLEDGEMENT OF ADDENDUMS: (Signature & Date Required)

Addendum 1:_____

Addendum 2:_____

Addendum 3: _____

EXCEPTIONS TO THE BID:

List any exceptions to the Bid Specifications

_____
_____
_____

1.0 BACKGROUND INFORMATION

The Ho-Chunk Nation (Ho-Chunk Nation) is a sovereign government dedicated to improving the lives of its constituents. In 1963, the Wisconsin Winnebago Ho-Chunk Nation was recognized as a federal tribe pursuant to the Indian Reorganization Act of 1934. On November 1, 1994, the Wisconsin Winnebago Ho-Chunk Nation officially changed its name to the Ho-Chunk Nation when the Secretary of the Interior formally recognized its new constitution. The Ho-Chunk Nation's main office is located in Black River Falls, Wisconsin. In addition to its government operations, the Ho-Chunk Nation currently operates six (6) gaming facilities, three (3) hotels, a resort, a convention center, five (5) convenience stores, a gift shop and a number of other ancillary businesses.

2.0 STATEMENT OF WORK

Invitation to Bids (ITB) is a method of procurement which obtains competitively sealed bids and is the preferred method for acquiring goods, services, and construction in which the award is made to the lowest responsive and responsible Bidder, that is in the best interest of the Ho-Chunk Nation. Bids are due at the time and date specified in this document. Late bids or bids received after the specified time and date will not be considered and will be rejected and returned to the vendor at vendor's expense, unopened.

The purpose of this Invitation to Bid (ITB) is to obtain competitive bid packages from responsible, qualified Bidders to provide HVAC SERVICES & REPAIR FOR HO-CHUNK GAMING WISCONSIN DELLS.

Please note however, the contract, regardless of the length of the term will be subject to the Ho-Chunk Nation's right to terminate the contract, with or without cause, upon prior written fourteen (14) day notice.

Freight is all-inclusive unless otherwise stated. The Ho-Chunk Nation does NOT accept any fuel surcharges.

3.0 SCOPE OF WORK

Ho-Chunk Gaming Wisconsin Dells facility is seeking bids for HVAC services. This scope of work in not all-inclusive but will contain projects similar to: all things related to maintenance and repair of HVAC items within the facility and the other sites mentioned. Compressor replacements, valve repairs, exhaust fans, coil repairs, RTU repairs, etc.

1. Supply, install, and perform maintenance for central HVAC Units to include A-Coils if needed.
2. Condensers to be set on pre-formed concrete pads and leveled. All penetrations to be insulated and sealed.
3. All necessary electrical, duct work and associated plumbing for condensate lines into existing drains.
4. All necessary tape, caulks, sealant and duct work for proper seal.
5. Operational inspection of the unit to test proper operation in all modes: cooling, reheat, de-humidification and humidification, alarms and indicating lamps.
    a. Inspect air filters, furnish and install new filters as needed.

b. Inspect fan belts, furnish and install new belts as needed. On fans with multiple belts, all belts shall be replaces as a set.

c. Lubricate motor bearings at required intervals per manufacturer's specifications.

d. Inspect and test compressor oil levels and adjust level as needed.

6. Site visits may be required as well as recommendations for new units at locations.

The successful bidders will be required to answer and service all emergency calls for HVAC assistance and emergency repairs, as deemed by our Facility Director, Program Facility Manager, Maintenance Manager or Executive General Manager of this facility. The areas of service will be for Ho-Chunk Gaming Hotel and Convention Center Wisconsin Dells, Whitetail Crossing Convenience Store Baraboo and Ho-Chunk RV Resort and Campground, Lyndon Station.

Other types of work such as minor to mid-level repairs will be done by way of task order or work order. By definition, task order will be a mini project and written scope agreement, based off this master contract. This would be for higher dollar amounts for maintenance or repairs to this facility.

Work order by definition, means that facility personnel and its ancillary sites, can assign work to be completed. An example would be minor maintenance/repair items that the each of the three sites can request. The successful company would come in by way of purchase order, do the work-repairs, invoices the facility or ancillary site, and receives payment. Larger capital dollar amounts will be a separate agreement based off the master contract.

The term of the contract shall be for one year from the day of signature from the Nations' president or representative. When the anniversary date arrives, the Nation reserves the right to continue with the service or extend the service contract for one more year, by way of addendum.

The successful companies will also turn in their current:

- Hourly or Journeymen rates,
- Apprentice rates,
- Helper rates
- Laborer rates
- Mileage
- After hours work rates
- Any weekend rates
- Holiday work rates
-

If the company is Union based, the local union that represents them will be turned in with their contact information. All bidders will go through a screening process and may have to do an interview if asked of them. A series of questions will be asked to the bidder for a better understanding and clarity of the Ho-Chunk Gaming and ancillary sites' expectations. All other terms and conditions of this request for proposal must be followed.

4.0 TERMS AND CONDITIONS

4.1 Receipt and Handling

At time of receipt at the Ho-Chunk Nation's Procurement Division, all bids will be stamped showing date and time of delivery. Late bids or bids received after the specified time and date will not be considered and will be rejected and returned to the vendor at vendor's expense, unopened.

Bids must be submitted with One (1) Original and two (2) copies.
SEALED BID ENVELOPES ARE TO BE CLEARLY MARKED WITH THE BID TITLE, BID NUMBER, TIME AND DATE OF OPENING. Any bids received after the due date and time (late bids) will not be considered and will be returned unopened to the Bidder.

4.2 Bid Award
The bid award will be made to the lowest responsive, responsible Bidder solely in accordance with the criteria set forth in the bid. The Ho-Chunk Nation will be the sole judge of acceptability of any products/services offered.

4.3 Bid Guarantee
This bid shall be firm for at least 120 days after the latest time specified for submission of bids and thereafter until written notice is received from the Bidder.

4.4 Substitutions
NO substitutions, additions, or cancellations are permitted unless all such requests are submitted in writing and approved by the Ho-Chunk Nation. Requests for substitutions will be reviewed by the Ho-Chunk Nation and approval may be given by the Ho-Chunk Nation at its sole discretion.

4.5 Workmanship
Items shall be manufactured according to the highest traditions of the industry and shall meet all minimum commercial standards of quality. The Ho-Chunk Nation shall be the sole judge of acceptable products. Unacceptable products will be rejected and suitable price adjustments made. When the Ho-Chunk Nation determines a Bidder's bid to be unacceptable, such Bidder shall not be afforded an additional opportunity to supplement its bid.

4.6 Reserved Rights
The Ho-Chunk Nation reserves the right at any time and for any reason to cancel this Invitation to Bid, to reject any or all bids, or to accept an alternate bid. The Ho-Chunk Nation reserves the right to waive any immaterial defect in any bid. **Unless otherwise specified by the Bidder, the Ho-Chunk Nation has no less than on hundred and twenty (120) days to accept.** The Ho-Chunk Nation may seek clarification from a Bidder at any time and failure to respond promptly is cause for rejection. The Ho-Chunk Nation may require submission of best and final offers.

4.7 Incurred Cost
The cost for developing the bid is the sole responsibility of the Bidder. Ho-Chunk Nation will not provide reimbursement for such costs.

4.8 Full Pricing and Contingencies
The Ho-Chunk Nation shall hold the successful Bidder to their bid pricing. Additional charges for contingencies discovered by the vendor at any time after the date of opening this bid will not be considered by the Ho-Chunk Nation.

4.9 Recourse for Unsatisfactory Materials

All payments shall be contingent upon the Ho-Chunk Nation's inspection or and satisfaction with product or completed work. Any defective work or materials, non-conformance to bid specifications, damaged materials, or unsatisfactory installation shall be corrected by the Bidder to the Ho-Chunk Nation's satisfaction at no additional charge.

4.10 Security

Bidder represents and warrants to the Ho-Chunk Nation the neither it nor any of its principles, shareholders, members, partners or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Bidder further represents and warrants to the Ho-Chunk Nation that the Bidder and its principles, shareholders, members, partners, or affiliates, as applicable, are not directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as Specially Designated National and Blocked Person. The Bidder hereby agrees to defend, indemnify and hold harmless the Ho-Chunk Nation, the Corporate Authorities, and all Ho-Chunk Nation elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, form and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the foregoing representation and warranties.

4.11 OSHA Requirements

The Occupational Safety and Health Act of 1970 (OSHA) and the Ho-Chunk Nation's Occupational Safety and Health Program Act of 2002, 6 HCC §8 "guarantees workers the right to a safe and healthful workplace". Under Section5 (a) (1) of the OSHA Act, the employer must "furnish to each of his employees' employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees." There are times when the Ho-Chunk Nation must hire entitles and individuals (contractors) to perform services. To this end, contractors hired by the Ho-Chunk Nation must perform their duties in a manner that is compliant with all state, federal, and tribal health and safety laws and industry guidelines. It is the responsibility of the contractor to ensure that their personnel and subcontractors comply with all state, federal, and tribal health and safety laws and regulation and industry guidelines, including, but not limited to those set forth by: OSHA and related regulations, the Safety Inspection and Education Act, the Health and Safety Act, the Ho-Chunk National Institute of Occupational Safety and Health, the Ho-Chunk National Fire Protection Association, the Centers for Disease Control, American Industrial Hygiene Association, the American Council of Governmental Industrial Hygienists, the Environmental Protection Agency, and the Department of Transportation

4.12 Purchase Extension

This contract shall be offered for purchases to be made by other tribal and governmental units as authorized by the Government Joint Purchasing Act. All purchases and payments made under this authority shall be made directly by the tribal or governmental unit to the Bidder. The Ho-Chunk Nation shall not be responsible in any way for such purchase orders or payments. All terms and conditions of this contract shall apply to all orders placed by another governmental unit.

In addition, this contract may be offered to other divisions/departments of the Ho-Chunk Nation. All terms and conditions for the Ho-Chunk Nation will apply to all orders placed by other divisions/departments within the Ho-Chunk Nation.

4.13 Force Majeure Clause

All parties shall not be liable under the provisions of the contract for damages on account of strikes, lockouts, accidents, fires, inclement weather, delays of common carriers, acts of God, detrimental government actions, state of way, or any other causes beyond the control of the parties.

4.14 Taxes

The Ho-Chunk Nation is exempt from paying Wisconsin Use Tax, Wisconsin Retailers Occupation Tax, and Federal Excise Tax. (#39-1140880)

4.15 Payments

The Bidder shall furnish the Ho-Chunk Nation with an itemized invoice. Bidder shall be compensated for performance of the project and/or delivery of purchased item(s) on the basis, in the manner, and at a time specified on the attached documentation.

4.16 Bidder Responsibilities

The selected Bidder will be required to assume responsibility for all services offered in this bid. The Ho-Chunk Nation will consider the selected Bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

Any contract resulting from the BID may not be assigned, in whole or in part without written consent of the Ho-Chunk Nation. If the Bidder attempts to make such an assignment without the written consent of the Ho-Chunk Nation, the Bidder shall nevertheless remain legally responsible for all obligations under the Contract.

4.17 Interpretation or Correction of Invitation to Bid

Bidders shall promptly notify the Procurement Manager of any ambiguity, inconsistency, or error, which they may discover upon examination of the Invitation to Bid. Interpretations, corrections, and changes to the Invitation to Bid will be made by addendum. Interpretations, corrections, or changes made in any other manner will not be binding.

4.18 Compliance with Laws

The Bidder hereto covenants and agrees to comply with all applicable federal, state, tribal, and local laws, codes, ordinances, rules and regulations. Failure to comply with the terms of this provision shall constitute a breach of contract and permit the Ho-Chunk Nation to terminate this Invitation to Bid in accordance with the terms of the Ho-Chunk Nation provisions stated herein.

4.19 Recourse for Unsatisfactory Materials

Payment shall be contingent upon the Ho-Chunk Nation inspection or satisfaction with completed work. Any defective work or materials, non-conformance to specifications, damaged materials, or unsatisfactory installation shall be corrected to the Ho-Chunk Nation's satisfaction by the successful Bidder at no additional charge.

4.20 Termination

Failure to comply with the terms and conditions as herein stated shall be cause for cancellation of the contract. The Ho-Chunk Nation will give written notice of unsatisfactory performance and the Bidder will be allowed fourteen (14) days to take corrective action and accomplish satisfactory control. If at the end of the fourteen days, the Ho-Chunk Nation deems the Bidder's performance still unsatisfactory, the contract shall be canceled. The exercise of its right of cancellations shall not limit the Ho-Chunk Nation's right to seek any other remedies allowed by law. The successful Bidder will agree that the resulting contract is made subject to available budgetary appropriations and shall not create any obligation on behalf of the Ho-Chunk Nation in excess of such appropriations. In the event that no funds or insufficient funds are appropriated and budgeted, this Contract shall terminate without penalty or expense to the Ho-Chunk Nation fourteen (14) days after written notification of termination from the Ho-Chunk Nation.

4.21 Rejection of Bid, Waiver or Irregularities

Ho-Chunk Nation reserves the right to reject any or all bids, to waive irregularities, and to accept that bid which is considered to be in the best interest of the Ho-Chunk Nation. Any such decision shall be considered final.

4.22 Milestones

In some projects, milestones will be considered in making the award and the Bidders shall state, in the spaces provided expected milestones. Failure to meet said milestones without prior consent of the Procurement Manager will be considered breach of faith.

4.23 Workmanship

Items shall be manufactured according to the highest traditions of the industry and shall meet all commercial standards of quality. The Ho-Chunk Nation shall be the sole judge of acceptable products. Unacceptable products will be rejected and suitable price adjustments made.

4.24 Insurance

The successful Bidder shall maintain for the duration of the contract and any extensions thereof, at Bidder's expense, insurance that includes "Occurrence" basis wording and is issued by a company or companies qualified to do business in the State of Wisconsin that are acceptable to the Ho-Chunk Nation, which generally requires that the company(ies) be assigned a Best's Rating of A or higher with a Best's financial size category of Class XIV or higher, in the following types and amounts:

a) Commercial General Liability in a broad form, to include, but not limited to, coverage for the following where exposure exists: Bodily Injury and Property Damage, Premises/Operations, Independent Bidders, Products/Completed Operations, Personal Injury and Contractual Liability; limits of liability not less than:
    a. $1,000,000 per occurrence and $2,000,000 in aggregate;
b) Business Auto Liability to include, but not be limited to, coverage for the following where exposure exists: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership; limits of liability not less than:
    a. $1,000,000 per occurrence combined single limit for: Bodily Injury Liability and Property Damage Liability;

c) Workers' Compensation Insurance to cover all employees and met statutory limits in compliance with applicable state and federal laws. The coverage must also include Employer's Liability with minimum limits of $100,000 for each incident.
d) Professional Liability Insurance with $1,000,000 per occurrence and $1,000,000 in aggregate.

4.25 Evidence of Insurance

The successful Bidder agrees that with respect to the above-required insurance that:

(a) The Ho-Chunk Nation shall be provided with Certificates of Insurance evidencing the above required insurance, prior to commencement of the contract and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies;
(b) The contractual liability arising out of the contract shall be acknowledged on the Certificate of Insurance by the insurance company;
(c) The Ho-Chunk Nation shall be provided with thirty (30) days prior notice, in writing, of Notice of Cancellation or material change and said notification requirement shall be stated on the Certificate of Insurance;
(d) Subcontractors, if any, comply with the same insurance requirements. In addition to being named as an additional insured on the Certificate of Insurance, each liability policy shall contain an endorsement naming the Ho-Chunk Nation as and additional insured. A Copy of the endorsement shall be provided to Ho-Chunk Nation along with the Certificate of Insurance; and
(e) have Ho-Chunk Nation named as an additional insured and the address for certificate holder must read exactly as:

Ho-Chunk Nation, a body politic
W9814 Airport Road
Black River Falls, WI 54615

(f) Insurance Notices and Certificates of Insurance shall be provided to:

Ho-Chunk Nation Treasury, Procurement Division
W9814 Airport Road
Black River Falls, WI 54615

The Ho-Chunk Nation shall be provided with Certificates of Insurance evidencing the above required insurance prior to the commencement of this Agreement and thereafter with the certificated evidencing renewals or changes to said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies. **The Ho-Chunk Nation shall be named as additional insured on all liability policies, and the parties acknowledge that any insurance maintained by the Ho-Chunk Nation shall apply in excess of, and not contribute to, insurance provided by successful Bidder.** The contractual liability arising out of the Agreement shall be acknowledged on the Certificate of Insurance by the insurance company. The Ho-Chunk Nation shall be provided with thirty (30) days prior notice, in writing, of Notice of Cancellation or material change, and said notification requirements shall be stated on the Certificate of Insurance.

Acceptance or approval of insurance shall in no way modify or change the indemnity or hold harmless clauses in this agreement, which shall continue in full force and effect.

4.26 Indemnification

The Bidder shall indemnify and hold the Nation harmless from any claims, actions, and liabilities arising from any breach of the contract, or otherwise arising in connection with the Bidder's performance of the contract, unless and if only caused by the wrongful act or gross negligence of an employee or other agent of the Nation. If any employee of the Bidder is sued based on any cause of action; the Nation shall have the right to defend such actions on behalf of it. Bidder agrees to defend itself and fully cooperate with the defense of the Nation. Bidder shall pay for the cost of Nation defending a lawsuit as well as any liability incurred by the Nation's pursuant to this section. In addition, the Bidder agrees to indemnify, save harmless and defend the Ho-Chunk Nation, their agents, servants, and employees, and each of them against and hold them harmless from any and all lawsuits, claims, demands, liabilities, losses, and expenses, including court costs and attorney's fees, for or on account of any injury to any person, any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the work covered by this contract. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the willful and wanton conduct of the Ho-Chunk Nation, their agents, servants, or employees or any other person indemnified hereunder.

4.27 Choice of Law and Venue

The Bidder agrees that this bid has been executed and delivered on sovereign Ho-Chunk Nation lands and that their relationship and any and all disputes, controversies or claims arising under this proposal or any resulting contract shall be governed by the laws of the Ho-Chunk Nation, without regard to conflicts of laws principles. The Bidder further agrees that the exclusive venue for all such disputes shall be the Ho-Chunk Nation Tribal Court, Black River Falls, Wisconsin, and the Bidder hereby consent to the personal jurisdiction thereof.

4.28 Relationship of Parties

The parties to any agreement agree that the successful Bidder is an independent business/person or corporation and that the relationship created by any agreement is that of an Independent Contractor. No agent, employee or servant of the Bidder shall be deemed to be an employee, agent, or servant Nation. The Bidder is not authorized to bind the Nation to any agreement or act on the behalf of the Nation in anyway; other than perform the scope of services or supply of goods and shall not represent to any person or otherwise purport to be so authorized.

4.29 No Employment Rights or Benefits

The Bidder is not an employee of the Ho-Chunk Nation and is not entitled to the benefits provided by the Ho-Chunk Nation to its employees, including, but not limited to commendation, insurance, unemployment insurance, group insurance and pension plan. No right, preference or interest conferred upon employees of the Nation by the Employment Relations Act of the Nation, or any source, whatsoever, shall apply to the Bidder. The Bidder shall not be entitled to any such right, preference, or interest and shall have no right to utilize any grievance procedure or any other procedural right provided thereby. The Bidder shall be entitled to only such rights, preferences, or interests as may be specifically conferred in this Agreement or by the laws of the Ho-Chunk Nation which are generally applicable to independent service contractors with the Nation.

4.30 Bidder Tax and Recordkeeping Responsibilities

Both the No-Chunk Nation and the Bidder will recognize and agree that the Bidder is and shall be treated as an Independent Contractor for all purposes under the laws of the Ho-Chunk Nation and any and all other applicable tax laws.

4.31 Compliance with Drug Policy

Bidder shall abide by the Nation's Drug and Controlled Substance Policies and Procedures and agrees to submit to testing pursuant to the Drug Policies and Procedures. The contract shall immediately terminate upon positive test result of the Bidder for a drug or controlled substance in accordance with the Drug Policies and Procedures. No Bidder shall be eligible to enter into a contract with the Nation during any period where Bidder is ineligible by the Nation in accordance with Drug Policies and Procedures.

4.32 Vendor Licensing

If the successful Bidder is subject to comply with the Nation vendor licensing requirements and fails to fulfill such requirements, the contract will be voidable by the Nation.

4.33 Non-Waiver of Sovereign Immunity

Nothing contained in contract or any amendments hereinafter shall in any manner be construed or deemed to be a waiver of the sovereign immunity of the Nation, except that the Nation agrees it shall make the payment for goods and services provided under contract in accordance with its terms upon satisfactory performances by the Bidder of its obligations hereunder. This limited waiver pertains to payment of goods and services delivered in strict accordance with the contract and to no other claim or cause of action whatsoever, whether or not arising under or in any way connected with the contract. This limited waiver is personal to the successful Bidder and is non-assignable. Commencement of any action by the Nation against the successful Bidder shall not constitute consent to any countersuit by the successful Bidder exceeding the scope of this limited waiver. Nothing in this section shall give the successful Bidder recourse to collect any assets held in trust for individual members of the Nation, including assets credited to the trust accounts for minors or legally incompetent persons. Bidder will agree that if they receive a judgment against the Nation for goods or services rendered, they will not be able to collect from the above indicated assets.

4.34 Non-Disclosure

The Bidder within the scope of work may receive confidential information, either in written form or by observation and agrees that any such information or access shall be kept confidential and shall not disclose or reveal it to any person other than to its representatives who are involved in the project. Bidders and their representatives agree to maintain confidential information as confidential and not to disclose or reveal it to any other person not association with the project.

4.35 Successors and Assignments

The benefits and obligations of the contract shall transfer and be binding upon the parties and their respective successors and permitted assigns, provided that neither party may assign or transfer their interest in the contract without prior written approval of the other party, which shall not be reasonably withheld.

4.36 Mandatory Pages

All mandatory pages must be included and must be signed by a person authorized to legally bind the company. ***FAILURE TO INCLUDE THE MANDATORY PAGES WILL RESULT IN THE REJECTION OF YOUR SUBMISSION.***

4.37 Fair Employment Practices

All bids shall be subject to the provisions of Ho-Chunk Nation Statutes relating to prohibition of discrimination in employment. This provision shall be applicable and incorporated as part of any contract or bid award.

4.38 Anti-Kickback Clause

The Contractor hereby agrees to adhere to the mandate dictated by the Copeland "Anti-Kickback" Act which provides that each Contractor or sub grantee shall be prohibited from inducing, by any mean, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

4.39 Debarment and Suspension

The Ho-Chunk Nation reserves the right to cancel this contract with any federally or tribal debarred Bidder or a Bidder that is presently identified on the list of parties excluded from Federal, State or Tribal procurement and non-procurement contracts.

4.40 Civil Rights Compliance

The Bidder agrees to abide by the requirements or the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1975, and Bidder agrees to abide by the requirements of the Americans with Disabilities Act of 1990. Bidder agrees not to discriminate in its employment practices, and will render services under the contract and any contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by the Bidder, or failure to comply with these statutory obligations when applicable shall be grounds for termination of the contract.

4.41 Bid Addendums

Ho-Chunk Nation reserves the right to addend or amend the bid prior to the date of bid submission. Addenda will be posted to the Internet at https://ho-chunknation.com/home/government/executive-department-directory/treasury/procurement/ .

4.42 Bid Withdrawal

Prior to the bid due date, a submitted bid may be withdrawn by the Bidder by submitting a written request to the email address named herein. A person authorized to sign for the Bidder must sign all such requests.

4.43 Contract

Ho-Chunk Nation reserves the right to add provisions to the contract to be consistent with the successful Bidder's offer and to negotiate with the successful Bidder other additions to, deletions from, and/or changes in the language in the audit contract. Provided, however, that no such

addition, deletion or change in the audit contract language would, in the sole discretion of Ho-Chunk Nation and its legal counsel, affect the evaluation criteria set forth herein, or give the successful Bidder a competitive advantage. Any contract with the Ho-Chunk Nation will provide for Ho-Chunk Nation governing law and jurisdiction. This contract will not waive the sovereign immunity of the Ho-Chunk Nation, and will require compliance with all Ho-Chunk Nation laws, ordinances, regulations and procedures, including the Tribal Employment Rights Ordinance.

Prior to award, the winning Bidder may be required to enter into discussions with Ho-Chunk Nation to resolve any differences before an award is made. These discussions are to be finalized and all exceptions resolved within one (1) week of notification. If not, this could lead to rejection of the Bidder's bid and to discussions being initiated with the subsequent highest scoring Bidder.

4.44 Default

In case of failure to provide services in accordance with the terms and conditions, Ho-Chunk Nation, after due oral or written notice, may procure the services from other sources and hold the Bidder responsible for any resulting additional cost. This remedy shall be in addition to any other remedies that Ho-Chunk Nation may have.

4.45 Restrictions on Communications with Staff

From the issue date of this bid until a Bidder is selected and the selection is announced, Bidders are not allowed to communicate for any reason with any Ho-Chunk Nation staff or officials except through procurement staff email named wherein or as provided by existing work agreement(s). For violation of this provision, Ho-Chunk Nation shall reserve the right to reject the bid of the offending Bidder. All questions concerning this BID must be submitted by e-mail to the appropriate procurement professional and shall reference the numbered item for which the question is asked.

4.46 Conflict of Interest

If any Bidder has any existing client relationship that involves the Ho-Chunk Nation that would prevent either from being objective, the Bidder must disclose such relationship. The Bidder will disclose any professional or personal financial interest which could be a possible conflict of interest in representing the Ho-Chunk Nation. The Bidder shall further disclose any arrangements to derive additional compensation from various investment products, including financial contracts.

4.47 Ethics in Public Contracts

By submitting their bids, all Bidders certify that their bids are made without collusion or fraud and that they have not offered or received any inducements from any other Bidder or sub Bidder in connection with their bids, and that they have not offered or provided any Ho-Chunk Nation employee or elected official having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value.

4.48 Confidentiality Requirements and Public Information Disclosure

The staff members that are assigned by the successful Bidder to this project may be required to sign a non-disclosure statement.

4.49 Cancellation of Bids

Ho-Chunk Nation may cancel the bid or reject bids at any time prior to an award, and is not required to furnish a statement of the reason why a particular bid was not deemed to have the best value to the Ho-Chunk Nation. The Ho-Chunk Nation shall not be liable for any losses incurred by the Bidders throughout this process.

4.50 Contract Documents

Sample contract documents are provided as an attachment to this solicitation. These documents will be provided to the successful bidder upon award. Any unauthorized alteration of these documents will automatically void the contract. No agreement or understanding to modify the contract shall be binding upon the Nation unless in writing and approved by the Nation. If this is for construction a similar document will be provided to bidder with construction terms.

4.51 Directions for Submission Submittal

Submit one (1) bid; multiple bids will not be accepted.

Electronic Bids will not be accepted.

Qualified individuals or firms are to submit **one (1) original and two (2) copies** of the completed bid and supported documentation to:

Dakota Walton-Smith, Procurement Agent
P.O. Box 640
W9814 Airport Road
Black River Falls, WI 54615

All data and documentation submitted as part of this bid shall become the property of the Ho-Chunk Nation. Bids must be received by **2:00 p.m. (CST) December 5, 2019**. It is the responsibility of the Bidder to ensure that the bids are received on time.

Absolutely no bid will be accepted after the time specified. Late bids shall be rejected and returned unopened to the sender. The Ho-Chunk Nation does not prescribe the method by which bids are to be transmitted; therefore, it cannot be held responsible for any delay, regardless of reason, in the transmission of bids.

BID ENVELOPES ARE TO BE CLEARLY MARKED WITH THE BID TITLE, TIME & DATE OF OPENING.

END OF DOCUMENT

Attachments

Revised 9-26-2018

HO-CHUNK NATION
GENERAL TERMS AND CONDITIONS

Independent Contractor
(IRS W-9)

THIS AGREEMENT is entered into by and between the **HO-CHUNK NATION**, a federally recognized Indian Tribe located at W9814 Airport Road, P.O. Box 667, Black River Falls, Wisconsin 54615, acting by and through its Ho-Chunk Dept (hereinafter "Nation"), AND Your name goes here having its principal place of business at Your address goes here (hereinafter "Service Provider"), collectively known as the Parties.

In consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1.) PROJECT AND/OR PURCHASE ITEMS. The Nation hereby contracts with the Service Provider to perform the project and/or deliver purchased item(s) described on the attached documentation hereto incorporated herein. This documentation may take the form of a Statement of Work created by the Nation, terms of a bid or RFP, or an invoice from Service Provider describing the services to be performed or goods to be delivered.

2.) SERVICE PROVIDER DUTIES. The Service Provider shall:

a.) Perform and carry out the project in a good and workman-like manner and to the best of Service Provider's abilities;
b.) Devote sufficient time to the Project to carry it out in an appropriate and proficient manner, and in accordance with the timetable, described on the attached Service Provider's documentation;
c.) Conduct the Project and perform services in a professional manner and in accordance with the directives of the Nation's Representative, identified on the attached documentation; and/or
d.) Deliver purchase item(s) in accordance with the specifications and directives of the Nation's Representative, identified on the attached documentation.
e.) The Service Provider warrants to the Nation that all goods and services furnished hereunder, will conform in the necessary respects to the terms of this Agreement, including any drawings, specifications or standards incorporated herein, and/or defects in materials, workmanship and free from such defects in design. In addition, the Service Provider warrants that goods and services are suitable for and will perform in accordance with the purposes for which they were intended.
f.) Regardless of F.O.B. point, Service Provider agrees to bear all risk of loss, injury, or destruction of goods and materials ordered herein which for any reason occur prior to acceptance of the Nation. No such loss, injury, or destruction shall release the Service Provider from any obligations herein.
g.) The Service Provider shall submit a Certificate of Insurance naming the Ho-Chunk Nation as additional insured, and it must be submitted prior to starting work.

3.) PAYMENT. Service Provider shall be compensated for performance of the Project and/or delivery of purchase item(s) on the basis, in the manner, and at the time specified on the attached documentation.

4.) TERM. This Agreement shall commence on the date specified on the attached Service Provider's agreement and shall continue until the earliest to occur of: (a) completion of the Project and/or delivery of purchased item(s); (b) either party terminates this Agreement with at least fourteen (14) days prior written notice; or (c) the Nation terminates this Agreement immediately following the material breach of this Agreement by Service Provider. In lieu of 14 days notice, the Nation may terminate this Agreement immediately, but must pay Service Provider for any work that would have been done in the 14 day period after notice would have been given. Should the Service Provider subsequently assume employment with the Nation in any capacity, this Service Agreement shall immediately terminate. No payment will be made for services under this Agreement, if such services are rendered while Service Provider is in a dual employment situation with the Nation. Material breach is defined as failure to provide duties as identified herein, or the Service Provider's assumption of simultaneous (dual) compensated employment with the Nation in any capacity, contractual or at-will.

5.) RELATIONSHIP OF PARTIES. The Parties to this Agreement agree that Service Provider is an independent business/person or corporation and that the relationship created by this Agreement is that of Independent Contractor. No agent, employee, or servant of Service Provider shall be deemed to be an employee, agent or servant of the Nation. The Service Provider is not authorized to bind the Nation to any agreement or act on the behalf of the Nation in anyway; other than to perform the Project, and shall not represent to any person or otherwise purport to be so authorized.

6.) NO EMPLOYMENT RIGHTS OR BENEFITS. Service Provider is not an employee of the Ho-Chunk Nation and is not entitled to the benefits provided by the Ho-Chunk Nation to its employees, including, but not limited to, commendation, insurance, unemployment insurance, group insurance and pension plan. No right, preference or interest conferred upon employees of the Nation by the Employment Relations Act of the Nation, or any other source whatsoever, shall apply to the Service Provider. The Service Provider shall not be entitled to any such right, preference, or interest, and shall have no right to utilize any grievance procedure or any other procedural right provided thereby. The Service Provider shall be entitled to only such rights, preferences, or interests as may be specifically conferred in this Agreement or by the laws of the Ho-Chunk Nation which are generally applicable to independent service contractors with the Nation.

7.) SERVICE PROVIDER TAX AND RECORD KEEPING RESPONSIBILITIES. The Parties recognize and agree that Service Provider is and shall be treated as an Independent Contractor for all purposes under the laws of the Ho-Chunk Nation and any and all other applicable tax laws.

8.) INDEMNIFICATION. The Service Provider shall indemnify and hold the Nation harmless from any claims, actions, and liabilities arising from any breach of this Agreement by Service Provider, or otherwise arising in connection with Service Provider's performance of the Project, unless and only if caused by the wrongful act or gross negligence of an employee or other agent of the Nation. If any employee of Service Provider is sued based on any cause of action; Nation shall have the right to defend such actions on behalf of it. Services Provider agrees to defend itself and to fully cooperate with the defense of the Nation. Service Provider shall pay for the cost of Nation defending a lawsuit as well as any liability incurred by Nation's pursuant to this section.

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9.) COMPLIANCE WITH DRUG POLICY. Service Provider shall abide by the Nation's Drug and Controlled Substance Policies and Procedures and agrees to submit to testing pursuant to the Drug Policies and Procedures. This Agreement shall immediately terminate upon positive test result of Service Provider for a drug or controlled substance in accordance with the Drug Policies and Procedures. No Service Provider shall be eligible to enter into a Service Agreement with the Nation during any period where Service Provider is ineligible to be employed by the Nation in accordance with the Drug Policies and Procedures.

10.) VENDOR LICENSING. If Service Provider is subject to comply with Nation vendor licensing requirements and fails to fulfill such requirements, this Agreement is voidable by the Nation.

11.) CHOICE OF LAW. This Agreement shall be construed under the laws of the Nation. The undersigned agrees that the Trial Court of the Ho-Chunk Nation in Black River Falls, Wisconsin shall have exclusive jurisdiction over any claim or controversy arising hereunder. The undersigned does hereby consent to the subject matter and personal jurisdiction of said Court over any such dispute arising pursuant to this Agreement and any and all subsequent additions, appendixes, addenda or any other amendment to this Agreement, without regard to conflicts of laws.

12.) NON-WAIVER OF SOVEREIGN IMMUNITY. Nothing contained in this Agreement or any amendments hereinafter shall in any manner be construed or deemed to be a waiver of the sovereign immunity of the Nation, except that the Nation agrees that it shall make the payment for goods and services provided under this Agreement in accordance with its terms upon satisfactory performances by the Service Provider of its obligations hereunder. This limited waiver pertains to payment for goods and services delivered in strict accordance with this Agreement, and to no other claim or cause of action whatsoever, whether or not arising under or in any way in connection with this Agreement. This limited waiver is personal to Service Provider and is non-assignable. Commencement of an action by Nation against Service Provider shall not constitute consent to any countersuit by Service Provider exceeding the scope of this limited waiver. Nothing in this section shall give Service Provider recourse to collect any assets held in trust for individual members of the Nation, including assets credited to the trust accounts for minors or legally incompetent persons. Service Provider agrees that if they receive a judgment against the Nation for goods and services rendered, they will not be able to collect from the above indicated assets.

13.) NON-DISCLOSURE. Service Provider, within the scope of work may receive confidential information, either in written form or by observation and agrees that any such information or access shall be kept confidential and shall not disclose or reveal it to any person other than to its Representatives who are involved in the project. Service Provider and its Representatives agree to maintain the Confidential Information as confidential and not to disclose or reveal it to any other person not associated with the project.

14.) INSPECTION. The Nation reserves the right to inspect goods at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of goods at time of delivery. Damaged goods or materials will be rejected and returned to the Service Provider at no cost to the Nation.

15.) SUCCESSORS AND ASSIGNMENTS. The benefits and obligations of this Agreement shall transfer and be binding upon the Parties and their respective successors and permitted assigns, provided that neither party may assign or transfer their interest in this Agreement without prior written approval of the other party(s), which shall not be unreasonably withheld.

16.) FORCE MAJEURE CLAUSE. All Parties shall not be liable under the provisions of this Agreement for damages on account of strikes, lockouts, accidents, fires, inclement weather, delays of common carriers, acts of God, detrimental governmental actions, state of war or any other causes beyond the control of the parties.

15.) TIME IS OF ESSENCE. All times stated in this Agreement or in all related document(s) are of the essence in this Agreement.

17.) SEVERABILITY OF AGREEMENT CLAUSES. If any provision of this Agreement is invalid or unenforceable under any statute or rule of law within the appropriate jurisdiction, the provision is to that extent to be deemed omitted and the remaining provisions shall not be affected in any way.

18.) WARRANTIES OF AUTHORITY TO ENTER THIS AGREEMENT. Each party represents and warrants that it has the full right, power and authority to enter into this Agreement and to effectuate the purpose and intent hereof. Each party further represents and warrants, respectively, that it is aware of no obligation or disability that would prevent it from entering into this Agreement and fully performing all of its obligations hereunder.

19.) ENTIRE AGREEMENT. This Agreement contains the entire agreement and understanding between the Nation and Service Provider relating to the subject matter herein, and supersedes any other agreement or understanding, whether written or oral, relating to this Agreement. The Nation will accept no alteration of this Agreement by the Service Provider. The Service Provider agrees that the Ho-Chunk Nation Service Provider Agreement supersedes any conflicting language which may include documentation provided by the Service Provider, including but not limited to, agreements, contracts, proposals, bids, or invoices. No terms of the Service Provider on any of their documentation that may be incorporated shall be binding upon the Nation. Any unauthorized alteration of this Agreement will automatically void this Agreement. No agreement or understanding to modify this agreement shall be binding upon the Nation unless in writing and approved by the Nation.

20.) DUPLICATE AND COUNTERPARTS. This Agreement may be signed in one copy or any number of copies, and all copies shall constitute one and the same original. An electronic signature or a facsimile copy of a signature upon this Agreement shall be binding upon the party whose signature so appears.

21.) ATTESTATION.

IN WITNESS WHEREOF, the Parties execute this Agreement at Ho-Chunk Nation Executive Building in Jackson County, Wisconsin.

HO-CHUNK NATION,

By: _____
President / Vice-President

Date: _____

SERVICE PROVIDER,

By: _____
Authorized Signature

Date: _____

Request for Taxpayer Identification Number (W-9) and Certification

Name (as shown on your income tax return):	
Business name/disregarded entity name, if different from above:	
Check appropriate box for federal tax classification: Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Limited liability company ☐	
Taxpayer Identification Number (TIN): Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). For other entities, it is your employer identification number (EIN).	**Social Security Number:** **Employer Identification Number:**

Certification:

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Further, I affirm that I/we are NOT an employee(s) of the Nation, as evidenced by the following facts:

1. I/We offer similar services to other clients besides the Ho-Chunk Nation by means of public advertising.
2. I/We currently have other paying clients besides the Ho-Chunk Nation for whom I/we perform similar services.
3. I/We maintain a workplace, not furnished by the Ho-Chunk Nation, and incur business expenses in the operation thereof.
4. I/We employ other people in providing services to the Ho-Chunk Nation and other clients, and file employer tax returns using the Employer Identification Number provided above.
5. No one in the Ho-Chunk Nation acts as a formal supervisor over me/us or is authorized to subject me/us to directives, discipline or other forms of control suitable for employees.
6. I/We bill the Ho-Chunk Nation for services based on my/our own records of time and output or I/we receive compensation according to a payment schedule set forth in advance as part of the contract with the Ho-Chunk Nation.
7. I/We utilize my/our own equipment in providing services to the Ho-Chunk Nation.

Signature:	**Print Name:**	**Date:**

END OF ATTACHMENTS