



BIDDER'S COMPANY NAME



Request for Proposal #6436

Office of Community Development Community Housing Development Organization (CHDO) Operating Funds for the HOME PROGRAM

Prepared By:

Washtenaw County Finance- Purchasing Division
County Administration Building
220 N. Main B-35
Ann Arbor, MI 48104

Anne Strieter
Senior Buyer
(734) 222-6760



WASHTENAW COUNTY

Finance Department- Purchasing Division

220 N. Main, Ann Arbor, MI 48104
Phone (734) 222-6760, Fax (734) 222-6764

REQUEST FOR PROPOSAL #6436

February 6, 2009

Washtenaw County Purchasing Division on behalf of the Washtenaw County/ City of Ann Arbor Office of Community Development is requesting proposals for Community Housing Development Organization (CHDO) Operating funds available through the County Home Investment Partnerships (HOME) Programs for the period of July 1, 2009 to June 30, 2010.

Sealed Proposals: Vendor will deliver one (1) original and two (2) copies of each application to the following address:

**Washtenaw County
Administration Building
Purchasing Division
220 N. Main St. Room B-35
P.O. Box 8645
Ann Arbor, MI. 48107**

By 3:00pm on Thursday, March 5, 2009.

A mandatory pre-bidders conference is scheduled for **Thursday, February 12th from 11:00 – noon** at the Office of Community Development at 110 N 4th Ave, Suite 300.

This submission shall include the entire Request for Proposal document and any amendments, if issued. Proposals received after the above-cited time will be considered a late quote and are not acceptable unless waived by the Purchasing Manager.

- Please use the attached self-addressed label or the envelope must be clearly marked "SEALED RFP #6436".
- Please direct purchasing and procedural questions regarding this RFP to Anne Strieter at (734) 222-6760 or email strietera@ewashtenaw.org .
- Please direct specific technical questions regarding this RFP to Jennifer Hall at (734) 622-9006 hallj@ewashtenaw.org .

Thank you for your interest.

TABLE OF CONTENTS

Section I Proposal Purpose & Reservations	3
Section II General Information about 2009-10 CHDO Operating Funding	4
Section III Standard Provisions for Washtenaw County Contracts	6
Attachment A Proposal Submission Requirements Checklist	10
Attachment B Proposal Cover Page	11
Attachment C Proposed Use of Funds.....	12
Attachment D 2008-09 HOME Program Income Limits	13
Attachment E Certification of Board Representation.....	14
Attachment F Low Mod Area Map.....	15
Attachment G Board Member Roster	16

SECTION I: PROPOSAL PURPOSE & RESERVATIONS

Definitions: **“County”** is Washtenaw County in Michigan.
 “Bidder” is an individual or business submitting a bid to Washtenaw County for the County or City.
 “Contractor” One who contracts to perform work or furnish materials in accordance with a contract.

A) PURPOSE OF PROPOSAL

Washtenaw County, Michigan is requesting proposals for the Office of Community Development CHDO Operating Funds. Annually, the federal Department of Housing and Urban Development HUD awards HOME Investment Partnership Program grants to Washtenaw County. The HOME program regulations permit the County to allocate a maximum of 5% of the annual HOME grant to directly support the operations of certified Community Housing Development Organizations (CHDOs). The County then expects these CHDOs to complete HOME-assisted owner or rental projects. The current funds available from these grants cover the period from July 1, 2009 to June 30, 2010. Washtenaw County is combining the CHDO re-certification requirements into this request for proposal.

The purpose of the allocation of HOME funds for CHDO Operating Assistance is to provide general operating support and to support activities that result in the development of an affordable housing project. If the CHDO does not have an existing HOME-assisted project, the Office of Community Development expects the CHDO to apply for HOME funds to support an affordable housing project within 12 months after a contract is signed for the CHDO Operating Assistance Funds awarded out of this RFP.

In addition, according to the HUD regulations, assistance for operating expenses in each fiscal year may not exceed \$50,000, or 50% of the CHDO's total annual operating expenses for that year, whichever is greater.

B) PROPOSAL RESERVATIONS

- 1) The County reserves the right to reject any and all proposals received as a result of this RFP. If a proposal is selected, it will be the most advantageous regarding price, quality of service, the Vendor's qualifications and capabilities to provide the specified service, and other factors, which the County may consider. The Office of Community Development does not intend to award a bid fully on the basis of any response made to a proposal.
- 2) The County reserves the right to seek additional information from organizations, especially those not previously funded by the County.
- 3) The County reserves the right to recapture and reallocate funds to alternate CHDOs for contracts that have not been executed by **October 31, 2009**, or where the HOME-assisted projects are not progressing in a timely manner.
- 4) The County reserves the right to establish spending guidelines for all projects.

- 5) The County reserves the right to waive or not waive informalities or irregularities in bids or bidding procedures, and to accept or further negotiate cost, terms, or conditions of any bid determined by the County to be in the best interest of the County.
- 6) An official authorized to bind the provider to its provisions for at least a period of 90 days must sign the proposal. Failure of the successful bidder to accept the obligation of the bid may result in the cancellation of any award.
- 7) In the event it becomes necessary to revise any part of the RFP, an addendum will be provided. Deadlines for submission of the RFPs may be adjusted to allow for revisions.
- 8) Proposals should be prepared simply and economically providing a straightforward, concise description of the vendor's ability to meet the requirements of the RFP. Proposals shall be written in ink or typewritten. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person **signing** the proposal.
- 9) The County will not be liable for any costs associated with the preparation, transmittal, or presentation of any materials submitted in response to this RFP.

SECTION II: GENERAL INFORMATION ABOUT 2009-10 CHDO OPERATING FUNDS

A) ESTIMATED FUNDING AVAILABLE

\$71,000

B) GENERAL GUIDELINES

For CHDO operating assistance, the following guidelines apply:

- 1) Applicant must be certified as a CHDO by the Participating Jurisdiction (PJ) where the project(s) are to be developed. Re-certification requirements are included in this RFP.
- 2) Applicant must have an existing HOME-funded project or apply for HOME funds for a project within 12 months of signing a CHDO Operating contract for funds awarded out of this RFP.
- 3) Applicant is expected to be in compliance with all HOME rules and regulations, and have a signed HOME contract with the County within 24 months of signing the contract for the CHDO Operating funds awarded out of this RFP.
- 4) Applicant must have a history of serving the community within which the affordable housing project will be developed, as evidenced by
 - a. Documentation of at least one year of experience in serving the community;
 - or

RFP #6436 2009-10 Office of Community Development CHDO Operating Funds

- b. For new organizations, a positive assessment of the work plan as submitted to the Office of Community Development; and
 - c. Documentation of staff with experience in housing development.
- 5) Funds may only be used to pay for the following eligible expenses:
 - a. Salaries, Wages and Benefits;
 - b. Rent and Utilities;
 - c. Training and Travel;
 - d. Technical Assistance;
 - e. Equipment and Supplies;
 - f. Communications; and/or
 - g. Contracted Professional Services.
- 6) Contracts for CHDO Operating Assistance have a term of 12 months. However, the Office of Community Development will only allocate two years worth of CHDO Operating funding for any one HOME-funded project.
- 7) If funded, the applicant will be required to submit a bonafide work plan, including specific milestones and target dates for the creation of new affordable housing units as evidence of the organization operating as a Community Housing Development Organization.
- 8) All organizations must demonstrate the capacity to expand its housing stock including but not limited to proof of positive cash flow for all current properties. CHDO Operating Assistance Funds are not to be used to support activities needed to maintain operations of current properties. **NOTE:** lack of positive cash flow on properties will not automatically disqualify applicant from receiving CHDO funds.
- 9) All successful proposals must address the community development needs presented in the Washtenaw Urban County Consolidated Plans, and must meet the guidelines articulated in this Request for Proposal.
- 10) All activities to be funded through this process must be targeted toward Washtenaw Urban County households earning up to 80% of the Area Median Income as defined by the most current HUD income limits (See Attachment D for the FY 2008 Income Limits by Household size. FY 2009 are usually published by HUD in Feb/March of 2009)
- 11) Washtenaw County will consider pre-determined criteria when awarding contracts for these funds. The County will also evaluate proposals based on performance outcomes for each activity and may conduct interviews with qualifying applicants to provide an opportunity to clarify the proposal and allow the applicant to advise of any additional factors which may be relevant to the delivery of the proposed services.
- 12) The Manager of the Purchasing Division reserves the right before making an award to have the premises of the bidder inspected, or to take any other action necessary to determine the fitness, reliability, and ability to perform. The inspection could check the physical location, facilities, equipment, spare parts, and/or for ability to comply with conditions of the bid.
- 13) Invoices submitted must be itemized to include monthly costs for given time period, and include the county's purchase order number. Any additional changes need to be detailed on the invoice. If any portion of the funds is used to support salaries, applicant will be required to provide timesheets for reimbursement.

SECTION III: STANDARD PROVISIONS FOR WASHTENAW COUNTY CONTRACTS

If a contract is awarded, the selected vendor will be required to adhere to a set of general contract provisions, which will become a part of any formal agreement. These provisions are general principles, which apply to all contractors of service to Washtenaw County such as the following:

ARTICLE III - REPORTING OF CONTRACTOR

Section 1 - The Contractor is to report to the Director of the Office of Community Development and will cooperate and confer with him/her as necessary to insure satisfactory work progress.

Section 2 - All reports, estimates, memoranda and documents submitted by the Contractor must be dated and bear the Contractor's name.

Section 3 - All reports made in connection with these services are subject to review and final approval by the County Administrator.

Section 4 - The County may review and inspect the Contractor's activities during the term of this contract.

Section 5 - When applicable, the Contractor will submit a final, written report to the County Administrator.

Section 6 - After reasonable notice to the Contractor, the County may review any of the Contractor's internal records, reports, or insurance policies.

ARTICLE IV - TERM

This contract begins on **July 1, 2009** and ends on **June 30, 2010**.

ARTICLE V - PERSONNEL

Section 1 - The contractor will provide the required services and will not subcontract or assign the services without the County's written approval.

Section 2 - The Contractor will not hire any County employee for any of the required services without the County's written approval.

Section 3 - The parties agree that the Contractor is neither an employee nor an agent of the County for any purpose.

Section 4 - The parties agree that all work done under this contract shall be completed in the United States and that none of the work will be partially or fully completed by either an offshore subcontractor or offshore business interest either owned or affiliated with the contractor. For purposes of this contract, the term, "offshore" refers to any area outside the contiguous United States, Alaska or Hawaii.

ARTICLE VI - INDEMNIFICATION AGREEMENT

The contractor will protect, defend and indemnify Washtenaw County, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the Contractor's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of Washtenaw County in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of contractor, any sub-contractor, or any employee, agent or representative of the contractor or any sub-contractor.

ARTICLE VII - INSURANCE REQUIREMENTS

The Contractor will maintain at its own expense during the term of this Contract, the following insurance:

1. Workers' Compensation Insurance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000 each accident for any employee.
2. Comprehensive/Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage. The County shall be added as "additional insured" on general liability policy with respect to the services provided under this contract.
3. Automobile Liability Insurance covering all owned, hired and nonowned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage.

Insurance companies, named insureds and policy forms shall be subject to the approval of the Washtenaw County Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to Washtenaw County. Contractor shall be responsible to Washtenaw County or insurance companies insuring Washtenaw County for all costs resulting from both financially unsound insurance companies selected by Contractor and their inadequate insurance coverage. Contractor shall furnish the Washtenaw County Administrator with satisfactory certificates of insurance or a certified copy of the policy, if requested by the County Administrator.

No payments will be made to the Contractor until the current certificates of insurance have been received and approved by the Administrator. If the insurance as evidenced by the certificates furnished by the Contractor expires or is canceled during the term of the contract, services and related payments will be suspended. Contractor shall furnish the County Administrator's Office with certification of insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this contract. Certificates shall be addressed to the County Administrator, P. O. Box 8645, Ann Arbor, MI, 48107, and shall provide for 30 day written notice to the Certificate holder of cancellation of coverage.

ARTICLE VIII - COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE IX - INTEREST OF CONTRACTOR AND COUNTY

The Contractor promises that it has no interest which would conflict with the performance of services required by this contract. The Contractor also promises that, in the performance of this contract, no officer, agent, employee of the County of Washtenaw, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 of the Public Acts of 1978, whichever is applicable.

ARTICLE X - CONTINGENT FEES

The Contractor promises that it has not employed or retained any company or person, other than bona fide employees working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach of this promise, the County may cancel this contract without liability or, at its discretion, deduct the full amount of the fee, commission, percentage, brokerage fee, gift or contingent fee from the compensation due the Contractor.

ARTICLE XI - EQUAL EMPLOYMENT OPPORTUNITY

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The Contractor will take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicant and the treatment of employees. Affirmative action will include, but not be limited to: Employment; upgrading, demotion or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

The Contractor agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Contractor, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

ARTICLE XII - LIVING WAGE

The parties understand that the County has enacted a Living Wage Ordinance that requires covered vendors who execute a service or professional service contract with the County to pay their employees under that contract, a minimum of either \$10.48 per hour with benefits or \$12.28 per hour without benefits. Contractor agrees to comply with this Ordinance in paying its employees. Contractor understands and agrees that an adjustment of the living wage amounts, based upon the Health and Human Services poverty guidelines, will be made on or before May 1, 2009 and annually thereafter which amount shall be automatically incorporated into this contract. County agrees to give Contractor thirty (30) days written notice of such change. Contractor agrees to post a notice containing the County's Living Wage requirements at a location at its place of business accessed by its employees.

ARTICLE XIII - EQUAL ACCESS

The Contractor shall provide the services set forth in Article I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

ARTICLE XIV - OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by the Contractor. During the performance of the services, the Contractor will be responsible for any loss of or damage to the documents while they are in its possession and must restore the loss or damage at its expense. Any use of the information and results of this contract by the Contractor must reference the project sponsorship by the County. Any publication of the information or results must be co-authored by the County.

RFP #6436 2009-10 Office of Community Development CHDO Operating Funds

ARTICLE XV - ASSIGNS AND SUCCESSORS

This contract is binding on the County and the Contractor, their successors and assigns. Neither the County nor the Contractor will assign or transfer its interest in this contract without the written consent of the other.

ARTICLE XVI - TERMINATION OF CONTRACT

Section 1 - Termination without cause. Either party may terminate the contract by giving thirty (30) days written notice to the other party.

ARTICLE XVII - PAYROLL TAXES

The Contractor is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect the County against such liability.

ARTICLE XVIII - PRACTICE AND ETHICS

The parties will conform to the code of ethics of their respective national professional associations.

ARTICLE XIX- CHANGES IN SCOPE OR SCHEDULE OF SERVICES

Changes mutually agreed upon by the County and the Contractor, will be incorporated into this contract by written amendments signed by both parties.

ARTICLE XX - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan.

ARTICLE XXI - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

In addition to the general County contract provisions, this contract will contain requirements for all contractors to comply with all applicable sections of the Home Investment Partnerships Program regulations, which are implemented at 24 CFR Part 92.

**ATTACHMENT A:
PROPOSAL SUBMISSION REQUIREMENTS CHECKLIST**

PROPOSAL APPLICATION (SUBMIT 1 ORIGINAL AND TWO (2) COPIES OF EACH)

- _____ Proposal Cover Page (Attachment B)
- _____ Narrative Description of Project(s) to include:
- _____ List of Current HOME-funded Projects
 - _____ Description of Planned Projects Including
 - _____ Estimated Timeline for Start/Complete
 - _____ Description of project (e.g. location, unit size, target rent or sales price)
 - _____ Target Population (e.g. income levels, special needs)
 - _____ Strategic Plan or Board Minutes showing support for proposed projects
- _____ CHDO Operating Proposed Use of Funds (Attachment C)

**ATTACHMENTS FOR CHDO CERTIFICATION UPDATE
(SUBMIT 1 COPY, UNLESS MOST RECENT VERSION IS ON FILE AT CD OFFICE)**

- _____ Certifications of Board Members (Attachment E) – **Due by April 1, 2009**
- _____ Current Board Roster (Attachment G)
- _____ Current Board Approved Operating Budget
- _____ Most Recent Agency Year-End Financial Statements showing budget & actuals
- _____ Most Recent Rental Project Year-End Financial Statements showing budget & actuals
- _____ Most Recent Audit and Management Letter
- _____ Agency Organizational Chart
- _____ Resumes of Key CHDO Staff members funded under this proposal
- _____ Copies of all 2008 Board Meeting Minutes
- _____ IRS Federal Form 990 Exempt Organization Return

CHDO must conform to the financial accountability standards of 24 CFR 84.21, "Standards for Financial Management Systems", as evidenced by:

- _____ a certification from a Certified Public Accountant, **OR**
- _____ a notarized statement from the president or CFO; **OR**
- _____ a HUD approved audit summary.

I certify that the documents indicated on this checklist are included in this proposal.

Name

Title

ATTACHMENT B: 2009-10 PROPOSAL COVER PAGE

Name of Nonprofit Organization: _____

Address: _____

Telephone: _____ **FAX:** _____

Contact Person: _____ **e-mail:** _____

Tax ID: _____

Enter amount requested: \$ _____

I have read the request for proposals and to the best of my knowledge and belief, all information is true and documentation complete. I also certify that the submission of this application has been approved by a least a 2/3 vote of the Board of Directors. I recognize that the County reserve the right to accept or reject this proposal, seek additional information, and to negotiate regarding the services to be provided or awards of funding.

Signature

Date

Print Name

Title

The above individual is authorized to sign on behalf of company submitting proposal. Proposals must be signed by an official authorized to bind the provider to its provisions for at least a period of 90 days

=====

OFFICE OF COMMUNITY DEVELOPMENT STAFF USE ONLY:

DATE/TIME RECEIVED _____ **Staff Initials** _____

MINIMUM SUBMISSION REQUIREMENTS MET? YES _____ **NO** _____

ATTACHMENT C: CHDO Operating Proposed Use of Funds			
ORGANIZATION NAME:			
CHDO OPERATING REVENUES			
REVENUE TYPE	COUNTY FUNDING	OTHER REVENUES¹	PROGRAM TOTALS
AMOUNT REQUESTED			
PROJECTED PROGRAM INCOME²			
TOTALS			³
CHDO OPERATING EXPENDITURES			
EXPENDITURE TYPE	COUNTY FUNDING	OTHER EXPENDITURES	PROGRAM TOTALS
PERSONNEL, TAXES, & FRINGES			
CONSULTANT & CONTRACTUAL			
SPACE & RELATED SUPPLIES			
OTHER:			
TOTALS			

¹ Indicate at the bottom of the page or on a second page the sources and amounts of your expected revenues for the 2009-10 program year; and provide the status of these funds (i.e. applied for, pending, or confirmed).

² Revenue generated as a result of activities funded by federal dollars. Does not include rental income or developer fee

³ The bottom right boxes in the revenue and expenditure tables should equal one another.

ATTACHMENT D: 2008-09 HOME PROGRAM INCOME LIMITS

Household Size	1	2	3	4	5	6
120% Median	\$67,300	\$76,900	\$86,650	\$96,250	\$103,900	\$111,250
Median income	\$56,100	\$64,100	\$72,200	\$80,200	\$86,600	\$92,700
*Low income (80% / 77%)	\$43,050	\$49,200	\$55,350	\$61,500	\$66,400	\$71,350
Low income (60%)	\$34,620	\$39,540	\$44,520	\$49,440	\$53,400	\$57,360
Very low income (50%)	\$28,850	\$32,950	\$37,100	\$41,200	\$44,500	\$47,800
Extremely low income (30%)	\$17,300	\$19,750	\$22,250	\$24,700	\$26,700	\$28,650

ATTACHMENT E: CERTIFICATION OF BOARD REPRESENTATION

All CHDO Board members must fill out at least one of the appropriate boxes below, and sign the bottom of this document.

The undersigned has been designated as a Representative on the Board of Directors for _____
(enter name of organization).

PART 1: RESIDENTS OF LOW-INCOME NEIGHBORHOODS

I, _____, am a resident of neighborhood where 51% or more of the Residents are low-income. The neighborhood has been designated as a low-income neighborhood as documented by _____.
My address is _____.

PART 2: LOW-INCOME RESIDENTS OF THE COMMUNITY

I, _____, qualify as a low-income resident under the HOME Program Definition. My household annual gross income is less than the amount listed below for my household size.

Household Size by Number of Members						
Maximum Income	1	2	3	4	5	6
	\$43,050	\$49,200	\$55,350	\$61,500	\$66,400	\$71,350

PART 3: ELECTED BY LOW-INCOME NEIGHBORHOOD ORGANIZATION

I, _____, am an elected representative of _____
A low-income neighborhood organization. The selection process took place on _____
(date). The selection criteria or process was: _____

(briefly explain process).

PART 4: NON-CHDO QUALIFYING BOARD MEMBERS

I, _____, am a current Board member of _____
(agency name), but do not currently meet the requirements described in Parts 1-3 above.

Further, the undersigned representative of the agency is attesting that supporting documentation of the Board Member's status is on file and available at the following address:

_____.

Name of Board Member

Signature of Board Member

Name of Authorized Agency Representative

Signature of Authorized Agency Rep

ATTACHMENT G: BOARD MEMBER ROSTER

Name of Organization: _____

Name	Board Position	Address and Phone	Current Job and/or experience related to development	Race*	Gender M/F	Term on Board

*RACE (as defined by HUD): American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White; American Indian/Alaska Native and White; Asian and White; Black/African American and White; American Indian/Alaskan Native and Black/African American; Other. In addition, please indicate Hispanic if it also applies.