

SOLICITATION/AWARD OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER ASBCC-09-00743		PAGE 1 OF 135	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER RECVR-09-R-0110	
6. SOLICITATION ISSUE DATE 05/15/2009		7. FOR SOLICITATION INFORMATION CALL: Sandy Emerson		b. TELEPHONE NUMBER 972-761-2596 saemerson@fdic.gov		8. OFFER DUE DATE/ LOCAL TIME 06/17/2009	
9. ISSUED BY Federal Deposit Insurance Corporation In Various Capacities DOA ASB 1601 Bryan Street Dallas, TX 75201 saemerson@fdic.gov				10. SOCIO-ECONOMIC STATUS ☒ NO ☐ YES NAICS: _____ ETHNICITY: _____ ☐ SDB ☐ MWOB ☐ SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS			
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED ☐ SEE SCHEDULE		12. DISCOUNT TERMS		13a. SUB-CONTRACTING PERMITTED/APPROVED ☐		13b. N/A	
15. DELIVER TO Sandy Emerson, 1601 Bryan Street, Dallas, TX 75201				16. ADMINISTERED BY Sandy Emerson 972-761-2596 saemerson@fdic.gov			
17a. CONTRACTOR/OFFEROR CODE _____		FACILITY CODE _____		18a. PAYMENT WILL BE MADE BY Federal Deposit Insurance Corporation Accounts Payable 1601 Bryan Street Dallas, TX 75201 apdl@fdic.gov			
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER ☐				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED ☐ SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
(Use Reverse and/or Attach Additional Sheets as Necessary)							
25. N/A						26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$0.00	
27a. SOLICITATION INCLUDES ATTACHMENTS ☒ YES ☐ NO						27b. AWARD INCLUDES ATTACHMENTS ☐ YES ☒ NO	
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED				29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. FEDERAL DEPOSIT INSURANCE CORPORATION (SIGNATURE OF CO)			
30b. NAME AND TITLE OF SIGNER (Type or print)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or print) Sandy Emerson		31c. DATE SIGNED 05/18/2009	

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE			32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
			32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
☐ PARTIAL ☐ FINAL			☐ COMPLETE ☐ PARTIAL ☐ FINAL	
38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY		
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		42a. RECEIVED BY (<i>Print</i>)		
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		42b. RECEIVED AT (<i>Location</i>)		
		42c. DATE REC'D (<i>YY/MM/DD</i>)		42d. TOTAL CONTAINERS

FDIC 3700/55 (3-08)

Section B - Supplies or Services and Prices/Costs

CLIN #	Description	Quantity	Unit	Unit Price	Total Price
0001	Owned Real Estate Receivership Basic Ordering Agreement (ORE RBOA) - To conduct pre-closing and closing ORE responsibilities, and manage and dispose of ORE assets acquired from failed financial institutions	1	EA		

Attachments for this section start after this page.

PRICING SCHEDULE

PRICING SCHEDULE - INITIAL TERM		
FIRM NAME:		PRIME
		SUBCONTRACTOR
1.0	SET-UP FEE: Per asset set up fee earned upon completion of tasks described in Section IV, Part One, for any asset assigned to the contractor pursuant to Section III.	
	1.1 Residential Lots	
	1.2 Residential SFR 1-4	
	1.3 Vacant Land	
	1.4 Vacant Commerical	
	1.5 Occupied Commerical	

2.0	DISPOSITION FEE: Per asset fee for the sale of the asset does not include any broker commissions paid. ORE property under a sales contract as of the bank closing date and subsequently closed is not eligible. ORE property under a sales contract as of the bank closing date which does not subsequently close and for which the Contractor obtains a new sales contract is eligible.	
	2.1 % or \$-Lump Sum Sale Comm.: All Properties & Land ≤ \$25,000	
	2.1.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6	
	2.2 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots \$25,001 to \$500,000	
	2.2.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6	
	2.3 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots \$500,001 to \$1 Mil.	
	2.3.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6	
	2.4 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots>\$1,000,001	
	2.4.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6	
	2.5 % Sales Comm.: Other Properties \$25,001 to \$1 Million:	
	2.5.1 % or \$Lump Sum Incentive Bonus for sale during 1st 6 mos.	
	2.6 % Sales Comm.: Other Properties \$1,000,001 to \$5 Million:	
	2.6.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6	
	2.7 % Sales Comm.: Other Properties \$5,000,001 to \$15 Million:	
	2.7.1 % or Lump Sum Incentive Bonus for sale during mos 1 thru 6	
	2.8 % Sales Comm.: Other Properties \$15,000,001 and Greater:	
	2.8.1 % or Lump Sum Incentive Bonus for sale during mos 1 thru 6	

3.0	Bank Closing Support Staff (Hourly Rates):	
	3.1 ORE Closing Team Lead (off-site)	
	3.1a ORE Closing Team Lead (on-site)	
	3.2 ORE Technician (off-site)	
	3.2a ORE Technician (on-site)	

4.0	MONTHLY ADMINISTRATIVE MANAGEMENT FEE: SFR 1-4, Land and 1-9 Lots Fee includes ORE property already under a sales contract as of the bank closing date until sale closes.	
	<i>The Monthly Administrative Management Fee is exclusive of third party property management fees, leasing, repairs or other direct asset related costs performed by third parties billed as pass-through expenses with no subcontractor mark-up. All property management contracts must be competitively bid and budgets must include property management costs.</i>	
	4.1 Monthly Administrative Management Fee on Marketable, non-income producing property during mos 1 thru 9. Administrative Management Fees <i>Management fees on non-income producing property are limited to nine (9) months.</i>	
	4.2 Monthly Lump Sum Administrative Management Fee for Marketable, leased residential 1-4 units or single lots	

	4.3 Lump Sum Fee for conducting residential 1-4 or vacant land evictions -ONLY if handled in house		
	4.4 Monthly Lump Sum Administrative Management Fee for unmarketable residential 1-4 units and lots/land.		
	4.5 Non Lead Participation Fee		

5.0	MONTHLY ADMINISTRATIVE MANAGEMENT & MISC. FEE - COMMERCIAL PROPERTIES: Commercial properties include any asset that contains 10 or more lots. Fee includes ORE property already under a sales contract as of the bank closing date until sale closes.		
	<i>The Monthly Administrative Management Fee is exclusive of third party property management fees, leasing, repairs or other direct asset related costs performed by third parties billed as pass-through expenses with no subcontractor mark-up. All property management contracts must be competitively bid and budgets must include property management costs.</i>		
	5.1 Properties with Appraised Values of \$0 to \$1,Million:		
	5.1.1 Monthly Lump Sum Administrative Management Fee		
	5.2 Properties with Appraised Values of \$1,000,001 to \$5 Million:		
	5.2.1 Monthly Administrative Management Fee - Flat Fee		
	5.3 Properties with Appraised Values of \$5,000,001 to \$15 Million:		
	5.3.1 Monthly Administrative Management Fee - Flat Fee		
	5.4 Properties with Appraised Values of \$15,000,001 to \$25 Million:		
	5.4.1 Monthly Administrative Management Fee - Flat Fee		
	5.5 Properties with Appraised Values Greater Than \$25 Million:		
	5.5.1 Monthly Administrative Management Fee - Flat Fee		
	5.6 Lump Sum Fee for conducting commercial tenant eviction - Prime or Sub		
	5.7 Lump Sum Monthly Administrative Management Fee for Unmarketable, vacant commercial property		

6.0	Research & Title Clearing Staff (Hourly Rates):		
	6.1 Title Research & Clearing Senior Professional		
	6.2 Title Research & Clearing Professional		
	6.3 Title Research & Clearing Junior Professional		

7.0	Property Tax Services		
	7.1 Protest Property Tax Assessed Values-% of Savings or Lump Sum Fee		
	7.2 Property Tax Expert Witness (Court Proceedings) - Hourly Rate:		

8.0	High Risk Property - Additional Inspections: Limited to properties located in areas prone to vandalism, theft, squatters, etc. are considered high risk properties that may require regular monitoring to prevent deterioration of value. This monitoring is in excess of the monthly and quarterly inspections required under the SOW by the property manager and the sales agent, respectively.		
	8.1 Cost of additional inspections on high risk assets/per inspection		
	8.2 Lump Sum Travel Fee per Additional high risk property inspection		

PRICING SCHEDULE - OPTION 1			
FIRM NAME:		PRIME	SUBCONTRACTOR
1.0	SET-UP FEE: Per asset set up fee includes completion of tasks described in Section IV, Part One, for any asset assigned to the contractor pursuant to Section III.		
	1.1 Residential Lots		
	1.2 Residential SFR 1-4		
	1.3 Vacant Land		
	1.4 Vacant Commerical		
	1.5 Occupied Commerical		
2.0	DISPOSITION FEE: Per asset fee for the sale of the asset does not include any broker commissions paid. ORE property under a sales contract as of the bank closing date and subsequently closed is not eligible. ORE property under a sales contract as of the bank closing date which does not subsequently close and for which the Contractor obtains a new sales contract is eligible.		
	2.1 % or \$-Lump Sum Sale Comm.: All Properties & Land ≤ \$25,000		
	2.1.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.2 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots \$25,001 to \$500,000		
	2.2.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.3 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots \$500,001 to \$1 Mil.		
	2.3.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.4 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots >\$1,000,001		
	2.4.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.5 % Sales Comm.: Other Properties \$25,001 to \$1 Million:		
	2.5.1 % or \$Lump Sum Incentive Bonus for sale during 1st 6 mos.		
	2.6 % Sales Comm.: Other Properties \$1,000,001 to \$5 Million:		
	2.6.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.7 % Sales Comm.: Other Properties \$5,000,001 to \$15 Million:		
	2.7.1 % or Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.8 % Sales Comm.: Other Properties \$15,000,001 and Greater:		
	2.8.1 % or Lump Sum Incentive Bonus for sale during mos 1 thru 6		
3.0	Bank Closing Support Staff (Hourly Rates):		
	3.1 ORE Closing Team Lead (off-site)		
	3.1a ORE Closing Team Lead (on-site)		
	3.2 ORE Technician (off-site)		
	3.2a ORE Technician (on-site)		
4.0	MONTHLY ADMINISTRATIVE MANAGEMENT FEE: SFR 1-4, Land and 1-9 Lots Fee includes ORE property already under a sales contract as of the bank closing date until sale closes.		
	<i>The Monthly Administrative Management Fee is exclusive of third party property management fees, leasing, repairs or other direct asset related costs performed by third parties billed as pass-through expenses with no subcontractor mark-up. All property management contracts must be competitively bid and budgets must include property management costs.</i>		
	4.1 Monthly Administrative Management Fee on Marketable, non-income producing property during mos 1 thru 9. Administrative Management Fees <i>Management fees on non-income producing property are limited to nine (9) months.</i>		
	4.2 Monthly Lump Sum Administrative Management Fee for Marketable, leased residential 1-4 units or single lots		
	4.3 Lump Sum Fee for conducting residential 1-4 or vacant land evictions - ONLY if handled in house		

	4.4 Monthly Lump Sum Administrative Management Fee for unmarketable residential 1-4 units and lots/land.		
	4.5 Non Lead Participation Fee		

5.0	MONTHLY ADMINISTRATIVE MANAGEMENT & MISC. FEE - COMMERCIAL PROPERTIES: Commercial properties include any asset that contains 10 or more lots. Fee includes ORE property already under a sales contract as of the bank closing date until sale closes.		
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	5.1.1 Monthly Lump Sum Administrative Management Fee		
	5.2 Properties with Appraised Values of \$1,000,001 to \$5 Million:		
	5.2.1 Monthly Administrative Management Fee - Flat Fee		
	5.3 Properties with Appraised Values of \$5,000,001 to \$15 Million:		
	5.3.1 Monthly Administrative Management Fee - Flat Fee		
	5.4 Properties with Appraised Values of \$15,000,001 to \$25 Million:		
	5.4.1 Monthly Administrative Management Fee - Flat Fee		
	5.5 Properties with Appraised Values Greater Than \$25 Million:		
	5.5.1 Monthly Administrative Management Fee - Flat Fee		
	5.6 Lump Sum Fee for conducting commercial tenant eviction - Prime or Sub		
	5.7 Lump Sum Monthly Administrative Management Fee for Unmarketable, vacant commercial property		

6.0	Research & Title Clearing Staff (Hourly Rates):		
	6.1 Title Research & Clearing Senior Professional		
	6.2 Title Research & Clearing Professional		
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7.0	Property Tax Services		
	7.1 Protest Property Tax Assessed Values-% of Savings or Lump Sum Fee		
	7.2 Property Tax Expert Witness (Court Proceedings) - Hourly Rate:		

8.0	High Risk Property - Additional Inspections: Limited to properties located in areas prone to vandalism, theft, squatters, etc. are considered high risk properties that may require regular monitoring to prevent deterioration of value. This monitoring is in excess of the monthly and quarterly inspections required under the SOW by the property manager and the sales agent, respectively.		
	8.1 Cost of additional inspections on high risk assets/per inspection		
	8.2 Lump Sum Travel Fee per Additional high risk property inspection		

PRICING SCHEDULE - OPTION TWO			
FIRM NAME:		PRIME	SUBCONTRACTOR
1.0	SET-UP FEE: Per asset set up fee includes completion of tasks described in Section IV, Part One, for any asset assigned to the contractor pursuant to Section III.		
	1.1 Residential Lots		
	1.2 Residential SFR 1-4		
	1.3 Vacant Land		
	1.4 Vacant Commerical		
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2.0	DISPOSITION FEE: Per asset fee for the sale of the asset does not include any broker commissions paid. ORE property under a sales contract as of the bank closing date and subsequently closed is not eligible. ORE property under a sales contract as of the bank closing date which does not subsequently close and for which the Contractor obtains a new sales contract is eligible.		
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	2.2.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.3 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots \$500,001 to \$1 Mil.		
	2.3.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.4 % or \$-Lump Sum Sales Comm.: SFR 1-4 & Lots >\$1,000,001		
	2.4.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.5 % Sales Comm.: Other Properties \$25,001 to \$1 Million:		
	2.5.1 % or \$Lump Sum Incentive Bonus for sale during 1st 6 mos.		
	2.6 % Sales Comm.: Other Properties \$1,000,001 to \$5 Million:		
	2.6.1 % or \$Lump Sum Incentive Bonus for sale during mos 1 thru 6		
	2.7 % Sales Comm.: Other Properties \$5,000,001 to \$15 Million:		
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3.0	Bank Closing Support Staff (Hourly Rates):		
	3.1 ORE Closing Team Lead (off-site)		
	3.1a ORE Closing Team Lead (on-site)		
	3.2 ORE Closing Assistance Technician (off-site)		
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	4.3 Lump Sum Fee for conducting residential 1-4 or vacant land evictions - ONLY if handled in house		

	4.4 Monthly Lump Sum Administrative Management Fee for unmarketable residential 1-4 units and lots/land.		
	4.5 Non Lead Participation Fee		

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6.0	Research & Title Clearing Staff (Hourly Rates):		
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7.0	Property Tax Services		
	7.1 Protest Property Tax Assessed Values-% of Savings or Lump Sum Fee		
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8.0	High Risk Property - Additional Inspections: Limited to properties located in areas prone to vandalism, theft, squatters, etc. are considered high risk properties that may require regular monitoring to prevent deterioration of value. This monitoring is in excess of the monthly and quarterly inspections required under the SOW by the property manager and the sales agent, respectively.		
	8.1 Cost of additional inspections on high risk assets/per inspection		
	8.2 Lump Sum Travel Fee per Additional high risk property inspection		

PRICING SCHEDULE - OPTION THREE			
FIRM NAME:		PRIME	SUBCONTRACTOR
1.0	SET-UP FEE: Per asset set up fee includes completion of tasks described in Section IV, Part One, for any asset assigned to the contractor pursuant to Section III.		
	1.1 Residential Lots		
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3.0	Bank Closing Support Staff (Hourly Rates):		
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	5.3 Properties with Appraised Values of \$5,000,001 to \$15 Million:		
	5.3.1 Monthly Administrative Management Fee - Flat Fee		
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	5.5.1 Monthly Administrative Management Fee - Flat Fee		
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	5.7 Lump Sum Monthly Administrative Management Fee for Unmarketable, vacant commercial property		

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	6.1 Title Research & Clearing Senior Professional		
	6.2 Title Research & Clearing Professional		
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7.0	Property Tax Services		
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	7.2 Property Tax Expert Witness (Court Proceedings) - Hourly Rate:		

8.0	High Risk Property - Additional Inspections: Limited to properties located in areas prone to vandalism, theft, squatters, etc. are considered high risk properties that may require regular monitoring to prevent deterioration of value. This monitoring is in excess of the monthly and quarterly inspections required under the SOW by the property manager and the sales agent, respectively.		
	8.1 Cost of additional inspections on high risk assets/per inspection		
	8.2 Lump Sum Travel Fee per Additional high risk property inspection		

Rev-May2009

Section C - Description/Specifications/Work Statement

Attachments for this section start after this page.

**OWNED REAL ESTATE (ORE)
MANAGEMENT AND MARKETING SERVICES**

STATEMENT OF WORK (SOW)

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Section I BACKGROUND

The Federal Deposit Insurance Corporation (FDIC) through its mandate as receiver for failed financial institutions acquires ORE property throughout the Continental United States, Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands. The Division of Resolutions and Receiverships (DRR) of the FDIC is seeking the services of a Contractor to assist in the acquisition, research, preparations for marketing, management, marketing and final disposition of all types of ORE property acquired by FDIC. Due to the widely varying size and asset allocation of failing financial institutions, scalability and flexibility of the Contractor's workforce is essential. See Appendix I for the Summary of FDIC ORE as of March 31, 2009.

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The Contractor shall comply with all applicable federal, state and local laws and regulations, including, without limitation, the Federal Fair Housing Act (42 USC 3600 et seq.) which provides, within the constitutional limitations, for fair housing throughout the United States.

Section II GENERAL SCOPE OF WORK

The services to be provided by the Contractor include, but are not limited to, the following five stages of work:

1. **Assist the FDIC during the Acquisition Stage** – Most of the ORE is acquired at the failure of financial institutions (bank closings). Other sources of ORE are foreclosure actions, settlements, deeds in lieu, and Discovered ORE Assets. Contractor may be required to assist the FDIC in developing a plan to manage ORE prior to a bank closing. Contractor is required to attend the closing of the financial institution to inventory and gain control of the ORE and Other Owned Assets, create 6-part files for each ORE asset and set up assets in Contractor's inventory system. Thereafter, Contractor will either remain on site for a specific period of time or move the files to the Contractor's location at the sole discretion of the FDIC.
2. **Prepare ORE property for Marketing** – This stage encompasses ensuring that the FDIC is the owner of the ORE property and that title can be conveyed. The Contractor is required to obtain services such as valuations (appraisals or broker's price opinions), title work, insurance, and environmental assessments, in order to prepare the ORE property for marketing. Some assets acquired may be Unmarketable and the Contractor shall be required to use their best efforts to make them Marketable.
3. **Manage ORE** – The purpose of this stage is to secure and manage the ORE in a manner that will minimize losses, maximize recoveries, and mitigate liability to the FDIC.
4. **Market, Sell & Close** – In this stage the Contractor shall expose ORE properties that are marketable to the broadest market possible, and negotiate and dispose of the ORE properties at the highest return possible within a reasonable period of time.
5. **Research Potential ORE** – This stage involves conducting research in response to inquiries on properties to determine ownership (Discovered ORE assets). It may be necessary to research public records. Typically the FDIC receives inquiries from investors or taxing jurisdictions claiming that the FDIC owns certain ORE property. The FDIC's goal is to provide top quality customer service to the public and to respond to Discovered Asset inquiries in a timely basis. Each request will require searching the FDIC's databases and warehouse records to ensure that the ORE property is owned by the FDIC and was not previously disposed by the FDIC. Access to FDIC systems and records requires Contractor and subcontractor security clearances as described in the Agreement.

Section III SOURCE AND ASSIGNMENT OF ORE PROPERTIES

1. **Bank Failures** - The FDIC acquires the bulk of its ORE properties from failed financial institutions. Contractor shall be assigned ORE properties from a specific bank failure via task order. These ORE properties may be located anywhere in the United States or its territories.
2. **Discovered ORE Assets** - Typically, the FDIC may discover assets as a result of investor's inquiries or tax billings which reveal FDIC ownership. These discovered assets usually have significant problems which need to be addressed before the assets can be marketed. If ownership can be established in the name of the failed institution or FDIC as receiver for the failed institution, these assets are typically labeled "Discovered ORE Assets". This ORE asset is then added to the Contractor's inventory to be prepared for marketing.
3. **Settlements/Compromise/Deeds in Lieu** - Occasionally ORE property is acquired through compromise, settlements, deeds in lieu or foreclosures. These ORE properties may be located anywhere in the United States or its territories.

The FDIC may add or delete ORE properties to or from the Contractor's inventory at any time at the sole discretion of the FDIC. The Contractor will receive notification of the additions or deletions from the Oversight Manager and the Contracting Officer. If a purchase and sale agreement has been entered into due to the Contractor's efforts on an ORE property prior to Contractor receiving notice from FDIC of its deletion from the contract, and the sale closes within 2 months, the Contractor will receive its disposition fee.

Section IV DELIVERABLES AND SCHEDULED MILESTONES FOR THEIR DELIVERY

Part 1. ORE ACQUISITION STAGE INCLUDING BANK CLOSING ACTIVITIES

Upon notice, the Contractor will provide qualified personnel to assist the FDIC in pre-closing planning and portfolio review to determine a disposition strategy should the institution fail.

Upon notice of the failure of the institution, the Contractor shall provide qualified personnel to assist the FDIC in gaining control of the ORE inventory, and shall commence the orderly management and disposition of these assets.

The following tasks, as they pertain to assets of an institution at the time of failure, must be completed prior to being released from a Bank Closing. Thereafter, for newly acquired ORE assets, these tasks must be completed within 3 business days of the date of acquisition:

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1. Gather information on each property by locating and reviewing bank records and interviewing bank personnel.
2. Obtain at least copies of legal instruments conveying ownership of each ORE asset to the failed institution (foreclosure deeds, warranty deeds, deeds in lieu, bankruptcy notices of abandonment, etc.) Note whether the instruments specify a sale price, bid amount or settlement amount establishing a book value basis for the asset.
3. Obtain copies of all existing leases and subleases, including bank premises, (usually available from the failed institution). Prepare a schedule including the name, address and physical description of the property, monthly rents, contact information for tenants, landlords and property managers, and salient terms of the lease (net or gross, CPI adjustments, options exercised or remaining). Provide FDIC with a copy of the schedule.
4. Obtain copies of any and all of the most recently performed professional valuations of the property.
5. Assist with reconciliation of failed bank's sub-ledgers for Owned Real Estate and Other Owned Assets (primarily furniture, fixtures and equipment and repossessed collateral) of the failed institution
6. Prepare operating budgets for each ORE property assigned including taxes, insurance, maintenance, property management and any other initial and recurring costs expected to be incurred in repairing, securing, preserving and marketing the property, in a format suitable to FDIC.
7. Prepare ORE worksheet for each ORE property in a format suitable to FDIC.
8. Prepare the ORE data upload to the FDIC's "4C" system or any other system of record, as it may come into existence, utilized by FDIC for the purpose of tracking its acquisition, ownership and sale of ORE property (see Appendix VI). Generate separate electronic reports for environmental inspections and blanket insurance coverage.
9. Set up the ORE Marketing/Management File (Contractor's ORE 6-part files). The Contractor may create and maintain electronic files to manage ORE. If electronic files are used, all information relevant to the ORE must be maintained in the electronic file. However, in any event, the contractor will provide FDIC with hard copies of all files prior to concluding their management activities for a given failed institution.
10. Ship files, in accordance with FDIC's security requirements for packaging and shipping (to be provided upon award), from the failed institution to the Contractor. In addition, after sales have closed and final reconciliation of all expenditures are completed, deletions, write offs, or options from assuming banks exercised, ship files from the

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Contractor back to the FDIC at a predetermined location by the FDIC.

Part 2. RESEARCH ON DISCOVERED ASSETS

The responsibility of the Contractor is to conduct comprehensive research of the records and systems held by the FDIC and of public records to determine if the property is owned by the failed institution or FDIC as receiver of a failed institution. Should the results of the research be that the FDIC as receiver of the failed institution is the owner of record, the property will be booked as a discovered asset, and managed and marketed until disposed. Should the research conclude that the property is not owned by the FDIC as receiver, the Contractor will provide evidence to the inquirer or public entities in an effort to correct the records.

Under the FDIC's guidelines, it is required to adequately expose the property in the open market prior to accepting an offer. Therefore, this needs to be clearly conveyed to any party who brings a potential discovered property to the attention of the FDIC and offers to purchase the discovered property.

1. During the Bank Closing, Contractor will exercise diligence in identifying ORE which had been legally foreclosed as of the Bank Failure Date and not yet added to the ORE sub-ledger. Likewise, diligence will be exercised in identifying assets that legally qualify as Owned Real Estate and which for any reason are not reflected on the institutions books. Sources for this information include reviews of bank records and files and interviews with bank personnel and foreclosure service providers. For purposes of record keeping, file preparation, asset management and marketing, Contractor will make sure that Discovered Assets receive identical treatment as those ORE assets duly recorded in the bank's sub-ledger as of the Bank Failure Date.
2. Inquiries regarding previously undiscovered ORE property are received either by phone, e-mail, or through documents mailed to the FDIC or the Contractor. Given the number of inquiries that are received, the first step is to request the inquirer to provide proper documentation in the form of legal documents (deed or title commitment) establishing the FDIC as the owner of the property.
3. The Contractor will create and keep current a database containing the status of the assets being researched and results obtained. The database should be capable of storing asset documentation in electronic format.
4. The Contractor will review the documents provided and research the FDIC's systems that carry current and historical information on ORE assets to determine if the asset was previously resolved or if further research in the form of a title commitment is necessary.
5. However, should the research on the FDIC's systems and databases, or the title commitment reflect that the FDIC does not have an ownership interest, the Contractor

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will inform the inquirer (in writing) and make a reasonable effort to correct the public records.

6. On occasion the Contractor may be asked to research the books and records of taxing jurisdictions, municipalities, and political subdivisions to determine whether they reveal the existence of any real property not known to the FDIC under any of its various capacities.

Part 3. ORE PROPERTY STABILIZATION

Initial Inspection: Within fourteen (14) working days of taking assignment of ORE property including property acquired by way of receivership or new foreclosures following a receivership, the Contractor shall conduct the initial on-site inspection and evaluation of each ORE property and take steps as needed to secure and preserve the property and address any liability issues..

Services required to be performed within fourteen (14) calendar days unless otherwise stated herein, or an extension has been granted by the FDIC Oversight Manager and Contracting Officer:

1. Inspect all properties. Determine the occupancy status of each ORE property. If the property is occupied, coordinate with the occupants to schedule an interior inspection as soon as it is practicable
2. If the property is occupied, obtain copies of keys if possible. If property is unoccupied, re-key the property. Provide a lockbox on all properties for accessibility to brokers and supply FDIC with an appropriate master combination (to be determined by the FDIC).
3. Inspect the property and prepare an inspection report with interior and exterior photographs. Describe and photograph any damage, deferred maintenance, building features requiring winterization, building code violations or hazardous conditions.
4. Notify FDIC of any damage, deferred maintenance, building features requiring winterization, building code violations, any liability issues or hazardous conditions noted in the inspection report and implement any needed property preservation, securing and remediation as authorized by FDIC or as delegated to the contractor.
5. Identify all utility accounts by property/asset name and convert utility billings into the Contractor's name as independent contractor for the FDIC as Receiver either of the failed institution or the subsidiary corporation.
6. On behalf of FDIC, take assignment of any revenue stream generated by the property and secure possession of any security deposits or any other amounts held in escrow for the benefit of the property by any third parties. If security deposits were held by the former

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Bank, (now the Receiver) arrange for transfer from the Receiver to Contractor. Notify all sources of revenue (tenants, vendors, etc.) regarding payment requirements, change in payee's name and payment address and establish current rent roll including summary of outstanding delinquencies.

7. Exercise reasonable diligence in identifying any parties currently engaged in providing recurring maintenance or other professional services at or on behalf of the ORE properties. Determine whether retention of their services is in the best interests of the FDIC and notify all parties of that determination.
8. For any ORE other than bank premises, inventory, photograph and place into storage any capital equipment, supply items and other abandoned personal property in a manner that fully complies with all ordinances having jurisdiction over the ORE property.
9. Remove and dispose of all trash on the property after having complied with local ordinances regarding abandoned personal property.

Part 4. ONGOING MANAGEMENT OF PROPERTIES

The Contractor may engage the services of a realtor or property manager to perform these services, but Contractor will be solely responsible for paying the third party any costs incurred for property management services.

1. 1. Prepare work specifications and secure competitive bid proposals for routine maintenance services, tenant improvements, completion of construction and any other matter related to the management and disposition of the property, recommend contract awards, negotiate and enter into maintenance/property management subcontracts in the capacity of an Independent Contractor of the FDIC, provide direct supervision of all contracted services, evaluate compliance with contract specifications and administer payment under the terms of the contract. Contracted services on a given property shall be documented monthly, and shall include before and after photos. Documented files should be available to the FDIC, or its designee, for inspection upon reasonable advance notice.
2. Promulgate and administer rules and regulations necessary for the efficient operation of the property and the security, comfort and safety of tenants, including obligations imposed by condominium associations, homeowners' associations, retailers and the like.
3. If the property is occupied by a tenant, obtain authorization from FDIC to honor the remainder of the lease or recommend repudiation of the lease. For income producing properties, develop and recommend a leasing strategy to enhance each property's revenue production potential.
4. Perform tenant liaison which will include monthly rent collections, provision to tenants of a property manager contact telephone number and address, retention and oversight of

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professional services including but not limited to routine property maintenance, rent collections, and retention of legal services related thereto. Maintain records of all actions taken with respect to each tenant and property.

5. As soon as it is determined that the property is adversely occupied (non-paying tenant, tenant on expired lease, former borrower occupying post-foreclosure, or other unauthorized occupant), seek approval from FDIC to commence legal action for eviction of occupant. Evictions that require the retention of a law firm must be conducted according to FDIC Legal Division procedures for handling legal matters; these are set out in the Basic Ordering Agreement.
6. On a monthly basis, inspect the property and prepare an inspection report with interior and exterior photographs. Describe and photograph any damage, deferred maintenance, building features requiring winterization, building code violations, liability issues or hazardous conditions. Document the inspection using the FDIC Property Inspection Form (attached as Appendix II) or a similar inspection report agreed upon with the Oversight Manager.
7. Notify FDIC of any damage, deferred maintenance, winterization needed, building code violations, liability issues or hazardous conditions noted in the inspection report and implement any needed property preservation, securing and remediation as authorized by FDIC or as delegated to the contractor.
8. Monitor the approved Budget/Management plan on a monthly basis and make adjustments accordingly.
9. At all times while an ORE property is being marketed, maintain the property in a condition commensurate with the property's management plan.
10. Update information on ORE properties in FDIC's "4C" system or any other system of record, as it may come into existence, utilized by FDIC for the purpose of tracking its acquisition, ownership and sale of ORE property (see Appendix VI). Updates would reflect additions and liquidations of properties assigned to the Contractor, changes in appraised value and/or list price and other relevant information as requested by FDIC. Work may be performed at the failed institution, Contractor's worksite, or FDIC offices at FDIC's discretion.
11. Routine property maintenance costs will be reimbursable as pass through expenses. Depending on the maintenance needs of each property, routine maintenance services may include, but are not limited to;
 - Security
 - Landscape, Maintenance/Periodic Mowing
 - Trash Removal
 - Exterior Sweeping

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- Janitorial
- Pest Control
- Snow Removal and Sanding
- Equipment Maintenance
- Winterization
- Property Management Company
- Leasing
- Evictions
- Tenant improvements
- Capital improvements
- Environmental remediation
- Finish construction
- Address liability issues

Part 5. TAXES

This section relates to the services required of the Contractor to provide comprehensive ORE property tax services and to protest (where applicable) the ORE property's assessed value. The requested services will fall into three categories:

1. **Determine the Correct Amount of ORE Property Taxes Owed** - Provide information and document the amount of ORE property taxes owed on ORE property.
2. **Protesting Assessed Values** – On a regular basis compare the assessed value to the appraised value and file tax protest on ORE properties where the assessed value exceeds the appraised value by 20% or more, or where the potential tax savings/refund exceeds \$5,000. If and when the Contractor is asked to protest a tax valuation the Contractor shall use its best efforts to preserve the FDIC's right to appeal assessments and pursue refunds for overpayments.
3. **Pay ORE property taxes as they become due and payable, providing that it makes business sense.**

The Contractor shall provide the following ORE property tax related services:

1. The Contractor shall address any existing or proposed tax collection actions such as delinquent tax bills, tax liens, tax foreclosures, tax sale dates or other collection efforts that may affect ORE properties assigned.. The Contractor shall obtain, from the taxing authority, a copy of any notification of collection action.
2. Maintain and update a database or other record keeping system that reflects the tax status on each ORE property according to industry standards. Database shall include:
 - a. Name of taxing authority
 - b. All past due tax assessment amounts and their due dates plus all current assessments as new tax bills are received

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- c. Amounts advanced by contractor including interest and penalties if applicable
 - d. Date paid
 - e. Date submitted for reimbursement from FDIC
 - f. The status of all pending tax appeals and other activities undertaken by the Contractor
3. For reporting purposes, ORE properties shall be identified by the FDIC Asset number and the FDIC asset name.
4. If the real property taxes on ORE are delinquent, the Contractor shall obtain a tax statement showing the amount necessary to bring the delinquent taxes current. To the extent the information is available, the statement should itemize separately the base amount of each tax installment due, the amount of accrued interest on each installment, the interest rate(s) being charged, penalties and per-diem amount for the next sixty- (60) days. ***By statute the FDIC is not liable for the payment of penalties and interest.***
5. When it makes business sense to do so, i.e. when the expected disposition value of the property is at least sufficient to recover all sums expended for the management and preservation of the property, contractor will initially advance all past due property taxes and, until the property is liquidated, advance current taxes before they become delinquent. All property tax advances will be reimbursed by FDIC.
6. The Contractor shall notify the appropriate taxing authority offices of changes in ownership when ORE properties are sold by the FDIC. The information provided to the taxing jurisdictions should contain the purchaser's names and addresses, as well as a copy of the recorded documents. It is the Contractor's responsibility to verify that the change has been made by the tax authority
7. The Contractor shall review the tax assessments for the current year and the previous year, and compare the assessed valuations to those of comparable ORE properties, and to the FDIC's appraised value to determine whether the ORE property is over-assessed.
 - The Contractor shall file an assessed value appeal on those ORE properties where the assessor's fair market value equals or exceeds one hundred twenty percent (120%) of the FDIC's most recent appraised value.
 - Additionally, notwithstanding the 120% assessed value to appraised value threshold, the Contractor shall protest assessed values when the anticipated tax saving or tax refund equals or exceeds \$5,000.00.
8. The Contractor shall determine if any of the assigned ORE properties are eligible for any type of property tax exemption, such as agricultural, horticultural, or other "open space" exemptions. The Contractor shall seek such exceptions, and shall prepare and file the corresponding applications for such exemptions.

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9. In cases where ORE property tax assessments have been reduced, the Contractor shall apply for refunds of ORE property taxes overpaid in prior years by the FDIC or the failed institution. Refunds should be noted in the monthly reporting package and tracked until recovered.
10. The Contractor must pursue refunds on ORE properties where the FDIC or a failed institution in receivership overpaid taxes during its ownership and a third party (purchaser, etc.) obtained refunds but did not remit the refund to the FDIC.
11. Upon Task Order award, the Contractor shall act as a consultant, and testify as an expert witness on behalf of the FDIC in any litigation pertaining to the assessed value of the ORE properties.

Part 6. MARKETING

In addition to the ongoing property management responsibilities, the Contractor shall complete the following marketing services for each property within the time specified below unless the particular service is determined to be inapplicable to a particular property.

Services required to be performed within fourteen (14) calendar days of the ORE property being assigned to the Contractor unless the Oversight Manager and Contracting Officer provide written approval of an extension:

1. Make a determination of marketability by confirming that FDIC holds marketable and fee simple title. This can be accomplished by ordering a title commitment. Either the FDIC or the failed institution (of which FDIC has been appointed the receiver) should be on record as the current owner. If not, this must be resolved by whatever means necessary before marketing the ORE property. This may require reprocessing a defective foreclosure, tendering a demand for defense to the title insurer or other actions as advised by legal counsel or FDIC Legal Division.
2. Determine the feasibility of resolving Unmarketable conditions to make Marketable. Unmarketable conditions may include, but are not limited to, resolving environmental issues, evictions, redemption periods, outstanding litigation, city code violations, and condemnations.
3. Initially list all properties with a real estate broker and install a "for sale" sign. Facilitate the sale by working with and providing assistance to the FDIC and its designees, including brokers, listing agents and others in the sale of any ORE property assigned to the Contractor.
4. Concurrently with the listing, Contractor will host and maintain an internet web site available to the general public and featuring each ORE property assigned to the Contractor. Each web listing will be reviewed bi-weekly and updated as needed. Each

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web listing shall include a photo of the ORE property plus the following information:

- Property Name
 - Property Type
 - Property city (not the complete street address – this could enable interested parties to bypass the realtor)
 - Property county
 - Property state
 - Asking price
 - Broker contact (Company & Agent)
 - Broker phone
 - Broker email address
 - The Contractor contact (if different from Broker)
 - The Contractor phone
 - The Contractor email address
 - Property brief description including #bedrooms, #bathrooms, building area and lot size
 - Indicator of tenant occupancy
 - Special comments at contractor's discretion
5. If the ORE property appears to be newly completed construction, determine whether occupancy permits have been issued (this service may be performed in conjunction with the valuation in item #6 below). If ORE construction is not completed, Contractor must obtain estimated repair costs and appraisals. Appraisals should include "as is" value and 'to be built' value if completed. Contractor shall make a recommendation on the cost effectiveness for completion.
 6. Order a valuation (appraisal or BPO) from an independent fee appraiser or real estate broker. Required valuation methodologies and frequencies by property type are specified in Appendix V. FDIC will specify the third party service providers from whom valuation services will be ordered.
 7. Order environmental assessments including at a minimum an Environmental Checklist in a form prescribed by FDIC and, as deemed necessary, Phase I, II or III reports from a licensed, independent environmental contractor. Hire a contractor to perform remediation when applicable and in conjunction with FDIC guidelines and with the approval and coordination of the FDIC Environmental Specialist. All work performed by any environmental contractors could be subject to additional oversight by the FDIC Environmental Specialist in addition to the normal oversight under the terms of this Agreement. FDIC will specify the third party service providers from whom environmental services will be ordered.

Throughout the marketing period, the following services must be provided:

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8. Contractor or its agent will conduct advertising, place signs, carry out direct mailings, list the ORE properties on Multiple Listing Services, and hold open houses to afford full and complete coverage in the local, national and/or international market as appropriate. Contractor or its agent will ensure that dedicated personnel are assigned to each ORE property who can be available to show the property on no more than one (1) business day's notice. The Contractor will show properties at the request of the FDIC or any prospective purchaser.
9. For ORE properties valued at \$500,000 or less, Contractor will act within the specific authorities delegated to it by FDIC regarding, among others, initial list price, incremental reductions in list price, payment of commissions, direct advertising costs billable to FDIC, listing agreement term, payment of closing costs and write-off of a portion of an ORE property's book value. All properties must be listed and submitted in a Master Blanket Sales Case for approval by FDIC.
10. Prior to executing a contract for the sale of any ORE property valued less than \$500,000, Contractor will then submit to FDIC, in a format suitable to FDIC, a *Sales Case and File Memorandum* (see Appendix III) signed by the Contractor's Asset Account Officer and their Asset Manager and describing the terms of the sale, a summary of any negotiations leading up to those terms of sale, a narrative summary of Contractor's marketing efforts with respect to the ORE property including any prior offer received and the disposition thereof, any viable alternatives to entering into the contract and the Contractor's recommendation and justification for entering into the contract. Contractor must await FDIC approval before executing a contract for the sale of an ORE property. A copy of the most recent valuation (appraisal or BPO) and a copy of the *Real Estate Purchase and Sale Contract* (see Appendix IV) with all addenda must accompany the *Sales Case and File Memorandum*.
11. For ORE properties valued at greater than \$500,000, Contractor will prepare and submit to FDIC for approval, in a format suitable to FDIC, a marketing plan and marketing budget. The marketing plan will provide a profile of potential buyers and target markets, advertising media to be utilized, concessions to be offered (if any), marketing events and special showing planned and any other marketing strategies that Contractor deems necessary and desirable. The marketing budget will itemize the total marketing expenses which will be covered under the asset disposition fee to be paid on a given property.
12. All purchase offers for ORE properties shall be submitted on the standard FDIC *Real Estate Purchase and Sale Contract* form (see Appendix IV). The Contractor shall negotiate the terms of the sale with prospective purchasers. All sales contracts must be complete, and must include all Exhibits including without limitation the *Purchaser Eligibility Certification* and the *Confidentiality Agreement* (where applicable). All documents should be signed, executed and dated.

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13. Subsequent to obtaining approval to execute a purchase contract and prior to closing escrow, Contractor shall submit to FDIC for FDIC's approval a copy of the HUD1 Settlement Statement, a copy of the deed and closing documents, a copy of the fully executed *Real Estate Purchase and Sale Contract* (see Appendix IV) and a copy of the signed *Sales Case and File Memorandum* (see Appendix III).
14. Once the closing occurs on the sale of an ORE property, Contractor shall wire the net proceeds according to wire instructions provided by FDIC. Contractor shall also forward to FDIC a copy of the wire confirmation, the final HUD1 Settlement Statement and a copy of the approved *Sales Case and File Memorandum*.
15. On a quarterly basis, Contractor will review the existing portfolio to determine the practicability of holding mass marketing events such as sealed bid sales or auctions. Contractor will plan, coordinate, and execute such events to ensure market exposure and prompt disposition of the ORE properties. The Contractor will also assist the FDIC by the following activities, including but not limited to, preparing PIPs (see # 18 below), showing properties, mailing property information, and collecting bids.
16. The Contractor shall implement special marketing and disposition procedures required by the FDIC pertaining to properties falling under the special environmental resources guidelines; as well as properties with environmental hazards that may require an environmental remediation agreement to be implemented by prospective buyers.
17. Contractor must be knowledgeable of the FDIC requirements to market and sell property under the Affordable Housing Program. This program is currently being amended and new policy will be forthcoming.
18. As requested by the FDIC and at no additional cost to FDIC, Contractor will prepare a Property Information Package (PIP) for each ORE property containing the following information wherever applicable:

Informational Documents:

All Properties

- Executive Summary – a brief narrative description of the property, containing dimensions, topography, proximity locations, etc.
- Property location maps and plats or surveys, if available.
- Property pictures.
- Current property tax information.
- Zoning and flood plain data.
- Environmental reports, if available.
- The FDIC title commitment, title policy or other reliable evidence of ownership.

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Improved/Commercial Properties (additional information)

- Leases and service contracts.
- Current rent rolls.
- Prior year plus year-to-date (or at least 12 months) income and expenses.
- Engineering reports, if available.
- Property As-Built, if available.

Interactive Documents:

- Appropriate purchase contract with its exhibits.
- Purchaser Eligibility Certification.
- Settlement Statement
- Appropriate deed instrument.
- Confidentiality Agreement, if rent rolls, leases or other tenant information is included.
- Any other state related documents such as lead base paint disclosure, riders, etc.

19. The Contractor will pay all costs and expenses incurred including, but not limited to, all costs and expenses for long distance telephone calls, presentations to prospective purchasers, and travel in connection with the marketing and sale of any ORE property. The Contractor is expected, at its own expense, to regularly advertise (in any media) properties that are available for sale. The FDIC may opt to augment advertisement for any mass marketing events sponsored by the Contractor.
20. Prepare work specifications and secure competitive bid proposals for marketing services where it is determined by the Contractor and the Technical Monitor that the marketing needs for a specific property can better be served by a separate or independent broker. Provide direct supervision of services performed by subcontractors, evaluate compliance with contract specifications and administer payment under the terms of the contract. Subcontracted marketing services shall be reported to the Oversight Manager monthly. Subcontracted services must be in compliance with the Agreement.
21. Make no representations or warranties, whether oral or written, concerning any of the properties including, without limitation, the status of title, zoning, availability of utilities, ingress and egress, or condition of any improvement, unless such representations or warranties have already been supplied by the FDIC in writing.
22. Secure and safeguard sensitive information concerning any debtors, tenants, purchasers or other parties. Tenant information, where properties are leased, will only be released to qualified purchasers who have properly executed the FDIC's Confidentiality Agreement. In all cases personal information on former debtors, tenants, purchasers and other interested parties will be kept in secure locations, safeguarded and only released to the Contractor employees on a "need to know" basis.

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23. If requested, conduct purchaser or potential purchaser surveys to measure customer satisfaction with the FDIC and the Contractor's policies and procedures, response times, and other service characteristics. Tabulate results and present them to the Oversight Manager and Technical Monitor.
24. If FDIC acquires a non-lead position in a participated ORE property, liquidation of the ORE property by the lead participant shall not be deemed a sale for purposes of entitling Contractor to a disposition fee.
25. If FDIC acquires multiple positions in a participation across multiple receiverships and FDIC decides to aggregate those positions, transfer of a participated position for aggregation purposes shall not be deemed a sale for purposes of entitling Contractor to a disposition fee.
26. FDIC may negotiate swaps of participation pieces between receiverships and other financial institutions in order to aggregate pieces into whole ORE assets. Such transfers shall not be deemed a sale for purposes of entitling Contractor to a disposition fee.
27. For purposes of determining Contractor's entitlement to set up fees, management fees and disposition fees, land assets of up to 9 residential lots located in the same subdivision shall be treated as a single lot. Land assets of 10 or more residential lots located in the same subdivision shall be treated as a commercial property.
28. When listing agreements are in place on an ORE property at the time a bank fails and the FDIC is appointed Receiver, Contractor should determine if these agreements should be ratified by the Receiver and, if so, whether the commission structures in the listing agreements can be renegotiated.
29. Contractor may earn the incentive bonus provided for in the Pricing Schedule, if the terms for payment of the bonus are met.
30. For sales contracts on ORE properties pending on the date FDIC is appointed Receiver of a failed institution (sales contracts already in place before a bank fails), which are subsequently ratified by the FDIC pursuant to delegated authority, Contractor will be paid:
 - A setup fee under section 1.0 of the Pricing Schedule, and
 - A monthly management fee until the pending sales contract is closed under either section 4.0 or section 5.0 of the Pricing Schedule, whichever applies.
 - No disposition fee or incentive bonus will be earned or paid.

If a pending sales contract on an ORE property falls through and does not close, and Contractor obtains a new contract on the ORE property, then Contractor is eligible to earn a disposition fee under the terms of section 2.0 of the Pricing Schedule as well as any incentive bonus which may be due.

Section V. REPORTING REQUIREMENTS

The Contractor shall provide to the Oversight Manager a copy of each report identified below. The Oversight Manager has the sole authority to waive reports for individual ORE properties. For reporting purposes, ORE properties shall be identified by the FDIC Asset number and the FDIC asset name. FDIC may cancel certain reporting requirements or may reasonably request additional reports on an as needed basis.

Due monthly by the tenth (10th) day of the succeeding month:

1. Asset Manager Portfolio Report (summary information by account officer)
2. Pending Sales Report for upcoming month by FIN
3. Monthly Closed Report / YTD Sales By FIN reflecting % of Sales to Appraised Value
4. Holding Time Report – Marketable & Unmarketable Assets by FIN with ORE property Type and Appraised Value
5. Expenditure Report by FIN Property Compared to the Budget Showing Expenses Incurred to Date as a % of the Appraised Value
6. Insurable Value Report by asset by FIN. Inventory report of Appraised value less land (Improvement value only) to adjust insurable value. Compare Insured Value of improvements and land to Appraised Value Express the Difference as a % of the Appraised Value
7. ORE properties Listed with Brokers w/Broker Information - Asset Name; Broker Name, Signage (Y/N); MLS (Y/N); Web Site (Y/N); Other
8. Listing of Tax Foreclosures and City Ordinance Violations Received (Note- this is submitted to Legal per the BOA)
9. Inspection Report by FIN showing date of last inspection
10. Sub-contractors Hired by Contractor Note: (Note: submitted to Contract Officer and pre-approved under the contract)
11. Discovered Assets - Number Inquires Received, Aging of Remaining Inquiries, Time Spent this Month, Cumulative Time Spent, Comments
12. New Assets - Method of Acquisition Report for all assets acquired the preceding month, due by the 10th of the following month and rolled up quarterly in a quarterly report due on the tenth (10th) day of the month following the end of each quarter. Method of Acquisition to include at the end of each calendar quarter, a compilation of the assets acquired in the last three months, on a month by month basis and a total for the preceding three months.
13. Asset Manager Review Report (detailed information)
14. Environmental Status Report including FDIC Environmental Codes.
15. Participation Report by FIN (including ORE assets owned by Subsidiary Corporations, Limited Partnerships, Joint Ventures, Participations Purchased and Participations Sold.
16. Lease Report, indicating all ORE properties that have tenants, terms of the lease agreement, monthly rent and rental delinquency status.

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17. Ad hoc reports as requested by FDIC on ORE information from the ORE database.
(see Appendix I as an example of an ad hoc report)

The FDIC shall have the option to amend the required contents of any report or change the reporting requirements at any time.

Section VI ADDITIONAL REQUIREMENTS

Meetings and the Contractor's Availability: Periodic meetings at the FDIC's Offices may be required at the request of the FDIC. The Contractor shall be required to be available electronically 24 hours a day, 7 days a week, including those holidays which are typically worked in real estate sales. The Contractor's telephone shall be answered live during the FDIC's core business hours of 8:00 a.m. (Eastern Time) to 5:30 p.m., (Pacific Time) Monday through Friday.

Section VII PERSONNEL CATEGORIES

The contractor will provide personnel with qualifications and experience as described below to assist the FDIC with the bank closing activities, title research and ORE property administrative duties outlined in this Statement of Work.

ORE Closing Team Lead

This person is responsible for providing assistance to the Asset Manager Support Team concerning owned real estate (ORE) at a financial institution closing. This person is charged with ensuring FDIC management's instructions and policies are fully complied with on an on-going basis. Areas of responsibility may include, but not be limited to, direct supervision of staff and providing necessary technical expertise and assistance to the staff. Accordingly, this person will manage routine changes in FDIC work load priorities in order to meet desired results in a timely manner. Specific tasks will include conducting bank closings, researching Discovered Assets, preparing ORE properties for marketing, managing ORE properties, paying, monitoring and protesting property taxes, marketing ORE properties, and supervising contractor's personnel on assignment to FDIC operations. This person may be called upon to serve as an expert witness in real property litigation.

Minimum qualifications include:

- (a) Four year business, accounting or equivalent degree from an accredited university and five (5) years or more of managerial/supervisory experience in either financial services or the mortgage industry including accounting, operations, and systems.
- (b) Excellent understanding of all financial institution assets and liabilities.

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- (c) Ability to read and understand financial institution accounting reports including the general ledger and all related sub ledgers, depreciation schedules, amortizing asset accounts, intangible assets and ORE related liabilities.
- (d) Ability to read, analyze and comprehend title insurance policies and title commitments, legal descriptions, contracts, leases, boundary surveys, ORE property inspection reports, broker opinions on value, appraisals, monthly broker reports, environmental reports and assessments, etc.
- (e) Demonstrated experience in working with brokerage and ORE property management companies on complex assets and in maintaining and monitoring compliance with existing contractual obligations.
- (f) Ability to deal effectively and communicate with individuals at all levels.
- (g) Ability to exercise restraint and compassion toward former financial institution employees in sensitive and emotional situations.
- (h) Ability to maintain confidentiality concerning any information gathered or used to compile reports and ensure proper safeguards are in place to protect any data being reviewed by his assigned team.
- (i) Demonstrated experience in implementation of policy and procedures.
- (j) Ability to conduct training programs, internally and externally.
- (k) Skill in the preparation of routine reports and forms.
- (l) Skill in the use of standard office equipment, i.e., copiers, faxes, typewriters and calculators.
- (m) Proficiency in Microsoft's Office suite of products (Word, Excel, Access, Outlook, PowerPoint) and the ability to quickly learn commercially available and proprietary computer applications.
- (n) Ability to review and critique the work papers prepared by support staff to ensure accuracy and compliance with FDIC policies.
- (o) Ability to manage work flow of staff and moderate tasks assignments in order to achieve timely results given FDIC priorities.

Title Research and Clearing Senior Professional

This person is responsible for the daily operations of the title research and clearing area. This manager is charged with ensuring FDIC management's instructions and policies are fully complied with on an on-going basis. Areas of responsibility may include direct supervision of staff and providing necessary technical expertise and assistance to the staff. Accordingly, this person will manage routine changes in FDIC work load priorities in order to meet desired results in a timely manner. This person may be called upon to serve as expert witness in real property litigation.

Minimum qualifications include:

- (a) Ten (10) years of well rounded experience in the real property title research and clearing field. This includes a strong understanding of legal issues affecting real property title and the curative measures that need to

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- be taken to ensure marketable title. Must have an excellent understanding as to how the real property records and title companies operate and how to obtain information from these entities in order to research and clear title in a timely and accurate manner.
- (b) Ability to read and analyze legal descriptions, all relevant legal documents, boundary surveys, etc. in order to determine accurate real property ownership, identify title issues and implement title curative measures.
 - (c) Ability to deal effectively and communicate with individuals at all levels.
 - (d) Demonstrated experience in implementation of policy and procedures.
 - (e) Ability to conduct training programs, internally and externally.
 - (f) Proficiency in Microsoft's Office suite of products (Word, Excel, Access, Outlook, PowerPoint) and the ability to quickly learn commercially available and proprietary computer applications.
 - (g) Ability to manage work flow of staff and moderate tasks assignments in order to achieve timely results given FDIC priorities.

Title Research & Clearing Professional:

This person provides technical expertise and assistance to the staff on a daily basis.

Minimum Qualifications include:

- (a) Minimum five (5) years of experience in handling real estate title curative issues
- (b) Possess a working knowledge of how real property record and tax jurisdiction offices operate and how to effectively access the information maintained by these agencies in order to identify, describe and obtain the supporting documents required to attest ownership interest.
- (c) Strong written and oral communication skills.
- (d) Ability to effectively deal and communicate with individuals at all levels.
- (e) Proficiency in Microsoft's Office suite of products (Word, Excel, Access, Outlook, PowerPoint) and the ability to quickly learn commercially available and proprietary computer applications. .

Title Research Junior Professional:

This person is responsible for conducting the daily detailed tasks related to title research and real estate title curative operations. This person performs varied analytical and administrative duties requiring general knowledge of the real estate business as it relates to title research and clearing title.

Minimum Qualifications shall include:

- (a) Minimum 3 years working with a title company.

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- (b) Basic knowledge of the real estate title issues.
- (c) Ability to effectively deal and communicate with individuals at all levels.
- (d) Demonstrated ability to accurately follow oral and/or written instructions.
- (e) Demonstrated skill in the preparation of routine analysis and reports.
- (f) Knowledge of technical and financial terminology to properly classify materials.
- (g) Proficiency in Microsoft's Office suite of products (Word, Excel, Access, Outlook, PowerPoint) and the ability to quickly learn commercially available and proprietary computer applications. .

ORE Technician:

Under the direct supervision of the Contractor, the ORE Technician supports the ORE Closing Assistance Professional in carrying out bank closing activities, researching Discovered Assets, preparing properties for marketing, managing ORE properties, paying, monitoring and protesting property taxes, and marketing ORE properties. ORE Technician will also perform data input and other administrative duties as assigned by the Contractor in response to FDIC requests.

Minimum Qualifications shall include:

- (a) Minimum 3 years working in a real estate related enterprise performing administrative duties such as data input, preparing paper files, reviewing real property related files and reports and extracting data.
- (b) Basic understanding of financial institution assets and liabilities.
- (c) Ability to read and understand financial institution accounting reports including the general ledger and all related sub ledgers, depreciation schedules, amortizing asset accounts, intangible assets and ORE related liabilities.
- (d) Ability to read and comprehend title insurance policies and title commitments, legal descriptions, contracts, boundary surveys, ORE property inspection reports, broker opinions on value, appraisals, monthly broker reports, environmental reports and assessments, etc.
- (e) Ability to deal effectively and communicate with co-workers.
- (f) Ability to show respect and compassion toward former financial institution employees.
- (g) Ability to maintain confidentiality concerning any information gathered or used to compile reports.
- (h) Skill in the preparation of routine reports and forms.
- (i) Skill in the use of standard office equipment, i.e., copiers, faxes, typewriters and calculators.
- (j) Proficiency in Microsoft's Office suite of products (Word, Excel, Access, Outlook, PowerPoint) and the ability to quickly learn commercially available and proprietary computer applications. .

Section VIII DEFINITIONS

4C – “Communication, Capability, Challenge, and Control” – The FDIC’s information platform used for tracking the management and marketing of assets acquired from failed institutions. Data is fed to 4C in part by reports generated by the ORE Field Closing Module.

4C Upload Tool - A Microsoft Access database tool used to record basic information on ORE acquired from a failed institution. This system generates a spreadsheet used to upload the information to 4C. Data is keyed in to the ORE Field Closing Module by Contractors on site at a failed institution as part of the Closing process

Affordable Housing Program – FDIC established this program to enhance its ability to sell single family and multi-family properties that will benefit low income families. The program encourages for-profit and nonprofit housing developers and public agencies to purchase FDIC held properties at below market prices. In return, purchasers agree to make the housing available to low income families at affordable rental rates.

Agreement – See “Basic Ordering Agreement”

BPO – Broker’s Price Opinion – A report prepared by a real estate broker substantiating their opinion of the probable sale price of real property. The report typically cites the recent sale prices of similar properties and is sometimes used to establish

Bank Failure Date – The date the FDIC is appointed as Receiver for the failed financial institution. Typically, this is the close of business on a Friday.

Bank Owned Premises – The failed institutions’ places of business which are owned versus leased.

Basic Ordering Agreement – An FDIC document authorizing the acquisition of goods or services via Task Orders. The Basic Ordering Agreement sets terms, conditions and limitations of the acquisition.

Closing – The process of taking control of a failed banking institution for which the FDIC has been appointed the receiver. The Closing begins on the Bank Failure Date and continues for as long as is needed for each FDIC functional area to complete their portion of the work.

Contracting Officer – A representative of the FDIC Division of Administration, Acquisition and Corporate Services Branch, authorized to contract for goods and services on behalf of the FDIC and to make changes to existing contracts.

Contractor – For purposes of this Statement of Work, an independent entity with the ability and legal capacity to enter into an agreement with FDIC to perform or directly oversee all of

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the tasks and services described herein utilizing its own employees or subcontractors.

Deed in Lieu- Voluntary transfer of property title by borrower in exchange for cancellation of debt.

Discovered ORE Assets – Real property which appears to be in the failed institution's name, however, it is not identified on the failed institution's general ledger or subsidiary ledger.

Environmental Remediation Agreement – A document under which a property purchaser agrees to cure an environmental hazard as a condition of sale.

FF&E – Furniture, fixtures and equipment.

FIN - Financial Institution Number, a unique number assigned to the failed financial institution placed under receivership with the FDIC.

HUD1 Settlement Statement - A form used by the settlement agent (also called the closing agent) to itemize all charges imposed upon a borrower and seller for a real estate transaction. It gives each party a complete list of their incoming and outgoing funds.

Marketable Asset – An asset of a failed financial institution for which a determination of Marketability has been made.

Marketability - The point at which the FDIC, or the ORE contractor on FDIC's behalf, has determined that FDIC holds fee simple and marketable title to a given ORE asset.

OORE – See Other Owned Real Estate

ORE – See Owned Real Estate

ORE Database - Contractor's database for managing and marketing the ORE assets assigned.

Other Owned Assets – Assets excluding cash, securities and real estate. Other Owned Assets consist primarily of furniture, fixtures and equipment but could include vehicles and other bank owned or repossessed collateral (e.g. art work, jewelry, guns).

Oversight Manager – An FDIC Program Office representative who monitors contractor performance and compliance with the contract. The Oversight Manager is not authorized to enter into new contracts or modify existing contracts.

Owned Real Estate - Land plus any improvement on that land deeded and recorded in the name of the FDIC in its Corporate or Receivership capacity. ORE consists of Bank Owned Premises and Other Owned Real Estate. While residential (including multi-family) and commercial properties (office, retail, light industrial, etc.) comprise the majority of ORE it

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could also include agricultural, developed lots, construction in progress, raw land, or any other type of real estate.

Sales Case And File Memorandum – Correspondence between Contractor and FDIC wherein Contractor seeks approval to accept a purchase offer for an ORE property (or take other action as Contractor deems necessary). The document describes the terms of the sale, summarizes any negotiations leading up to the offer, includes a narrative summary of Contractor's marketing efforts with respect to the ORE property including any prior offer received and the disposition thereof, describes any viable alternatives to the offer and it contains Contractor's recommendation and justification thereof.

SWAP – Bilateral exchange of properties with similar value or similar participated interests.

Task Order – An order for specific goods or services issued under a Basic Ordering Agreement.

Technical Monitor – Named FDIC Program Office representative overseeing the technical aspects and functions of Contractor, reporting to the Oversight Manager.

Unmarketable Assets – ORE assets that do not meet the criteria described under the definition of Marketable Assets. Criteria qualifying an asset as Unmarketable include, but are not limited to, title defects, outstanding litigation, unresolved environmental issues, evictions, redemption periods, city code violations, and condemnation.

List of Attachments:

- Appendix I: Current Summary of FDIC ORE Properties as of March 31, 2009
- Appendix II: FDIC Property Inspection Form
- Appendix III: Sales Case and File Memorandum
- Appendix IV: Standard Real Estate Purchase and Sale Contract
- Appendix V: ORE Appraisal Guidelines
- Appendix VI: ORE System Data Fields (To be provided at a later date)

APPENDIX I

CURRENT SUMMARY OF FDIC ORE PROPERTIES

AS OF MARCH 31, 2009

APPENDIX I - ORE SUMMARY AS OF MARCH 30, 2009

ORE Property in FDIC Receivership
Composition by Property Type
2009 Year to Date

Notice: This information is strictly historical. FDIC cannot predict the property types or volume of ORE properties available for assignment in the future. There will be no guarantees of the minimum or maximum volumes or types of assets to be assigned under the contract.

Property Types	Beg Assets YTD	Beg AV YTD ¹	New Assets YTD	New Assets AV YTD ²	Sales YTD	Sales AV YTD ³	Acquired Assets YTD	Acquired Assets AV YTD ⁴	Other Disposed MTD	Other Disposed Assets AV YTD ⁵	Ending Inventory YTD	Ending Inventory AV YTD ⁶	Sales Pending YTD	Sales Pending AV YTD ⁷
Commercial	106	226,830,598	19	36,563,877	11	15,254,240	16	95,184,900	4	192,333	126	304,407,151	2	6,020,000
Land - Unimproved	86	134,269,601	81	72,436,029	13	8,223,000	1	60,000	0	-	155	202,286,530	2	357,000
Land Improved & Lots	251	87,992,450	165	91,454,889	23	10,843,600	1	72,333	33	-	360	152,899,472	15	8,290,250
Multifamily - 5+	8	45,344,000	4	1,882,160	0	-	0	-	0.00	-	12.00	45,432,160	2	3,785,000
Residential 1-4	1794	338,780,100	1154	182,298,981	680	109,028,430	333	73,910,212	31	3,670,540	2570	430,023,887	284	47,268,533
Totals	2245	833,216,749	1423	384,635,935	727	143,349,270	351	169,227,445	68	3,862,873	3223	1,135,049,200	305	65,720,783

(1) Prior period ending total appraised value

(2) Book value of ORE as of the Closing Date for institutions closed in this period

(3) Appraised value of ORE sold

(4) New foreclosures, discovered assets, assets reclassified as ORE and "put backs" of optioned bank premises

(5) Write offs and ORE determined to be owned by others

(6) Ending inventory appraised value includes adjustments to value

(7) ORE under contract

APPENDIX II

INSPECTION REPORT FORMS

COMMERCIAL PROPERTY INSPECTION REPORT

Inspection Co.: _____	Management Co.: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Telephone #: _____	Telephone #: _____
Inspector (Print): _____	Contact Name: _____

Asset Number: _____ Property Name: _____

Inspection Date: _____ (mm/dd/yyyy) Address: _____

FDIC Contact: _____ City/State/Zip: _____

General Information

Property Type: **COMMERCIAL PROPERTY INCLUDING HOTELS, OFFICE BUILDINGS, APARTMENTS, INDUSTRIAL WAREHOUSES AND MANUFACTURING FACILITIES.**

Land Area: _____

Structural Improvements: _____

Building Area: _____

Number of Units: _____

Known or Observed Code Violations: _____

Known or Observed Environmental Conditions:

(Check for Spills, Contaminated Soil, Chemicals) _____

(Check for Asbestos Tile, Insulation, etc.) _____

(Check for Fuel Tanks Above or Below Ground) _____

(Check for Landfills & Environmental Hazard Signs) _____

Photos Taken and Submitted? _____ (Y/N)

Name of on-site Property Manager: _____
(Name, Address, Phone)

Comments:

List all parties with access to or possession of keys or lockbox combinations:

Are all structures secured? _____ (Y/N)

Is the property winterized? _____ (Y/N)

If not secured or winterized, list all security issues that need corrective action:

Inspected By: _____ (Sign)

Inspection Date: _____

Occupancy

Is the Property occupied, vacant/open, vacant/locked, boarded? _____

What is the properties condition? (Good, Fair, Poor): _____

Occupant(s) - List tenants or other occupants by unit number (List all units and indicate if vacant):

<u>Name</u>	<u>Unit Number</u>	<u>Phone Number</u>	<u>Tenant/Previous Debtor</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If more occupants are present, attach additional Pages)

Comments:

I. PROPERTY DESCRIPTION

Briefly Describe the Property:

II. EXTERIOR OF THE STRUCTURE(S)**A. Structure(s)**

i. Type: _____

ii Condition: _____

B. Painted Surfaces:

i. Type: _____

ii. Condition: _____

C. Foundation:

i. Type: _____

ii. Condition: _____

D. Exterior Glass Condition:

E. Roofs:

i. Type: _____

ii. Condition: _____

F. Air Conditioning Units:

i. Brands: _____

ii. Tonnage: _____

iii. Condition: _____

II. EXTERIOR OF THE STRUCTURE(S) CONT'D**G. Shipping or Loading Docks:**

- i. Type _____
- ii. Condition _____
- iii. Are loading dock doors secure? _____
- Comments: _____

H. Type of Water System:

- i. Type: _____
- ii. Condition: _____

I. Type of Sewer/Septic System:

- i. Type: _____
- ii. Condition: _____

J. Parking Lots:

- i. Type: _____
- ii. Condition: _____
- iii. Any Chuck (Pot) Holes? _____
- iv. Are curbs broken? _____
- v. Do they need to be seal coated? _____
- vi. Do they need to be re-striped? _____
- vii. Are there any abandoned vehicles? _____
- viii. Is there any covered parking? Carports? _____
- Comments: _____

K. Landscaping:

- i. Overall condition: _____
- ii. Is it neat and clean? _____
- iii. Is it adequate? _____
- iv. Are the beds turned? _____
- v. Are there flowering bed plants? _____
- vi. Is the property properly watered? _____
- Comments: _____

L. Trash Removal System:

- i. Frequency of collection: _____
- ii. Size of containers: _____
- iii. Are they in good condition? _____

M. Signage:

- i. Type: _____
- ii. Condition: _____
- iii. Is it adequate for the circumstances? _____

N. List Exterior Personal Property:

List Debris Requiring Removal:

_____	_____
_____	_____
_____	_____
_____	_____

If condition is less than acceptable, describe deficiencies:

--

III. INTERIOR OF THE STRUCTURE(S):**A. Vacant Units:**

- i. How many? _____
- ii. Is it shell space or improved space? _____
- iii. Has it been trashed out? _____
- iv. Is it in showable condition? _____
- Comments: _____

III. INTERIOR OF THE STRUCTURE(S) CONT'D:**B. Entry Doors:**

i. Type: _____

ii. Condition: _____

C. Interior Walls:

i. Type: _____

ii. Condition: _____

D. Mechanical System (If Common Utilities) or Systems:

i. Describe: _____

ii. How many units? _____

iii. Cleanliness: _____

iv. Are there any fire extinguishers? _____

v. Were any flammable materials stored nearby? _____

E. Basement:

i. Is there a Basement? _____

ii. Is it neat and clean? _____

iii. Are all items properly stored? _____

iv. Are any flammable materials stored there? _____

F. List Interior Personal Property: _____**List Debris Requiring Removal:** _____**If condition is less than acceptable, describe deficiencies:**

--

IV. ADDITIONAL PROPERTY INSPECTION COMMENTS**A. Maintenance Room:**

i. Is there a maintenance room? _____

ii. Is it neat and clean? _____

iii. Are all items properly stored? _____

iv. Are any flammable materials stored there? _____

v. Is there a fire extinguisher? Is it properly installed? _____

B. Liability Issues:

i. Fencing around loading, manufacturing areas, pools, etc.: _____

ii. Balcony/Catwalk issues: _____

iii. Railing issues: _____

iv. Stair conditions: _____

v. Fire escape issues: _____

vi. Smoke detector issues: _____

C. Other Notes:

--

D. Location: _____

How Does the Location affect the value? _____

E. Marketing:

i. How does the property present itself? _____

V. OTHER COMMENTS: (Special Issues)

--

Instructions: Fill in all items pertaining to the type of property. If the item does not apply, write N/A. If the information is not obtainable, write N/O. Be as complete as possible and do not abbreviate any response. Use attachments for responses requiring additional space. Use "Enter" key to move around on protected sheet!

VI. PICTURES TAKEN

[Insert hard copies and add pages for file copy OR Attach electronically]

LAND PROPERTY INSPECTION REPORT

Inspection Co.: _____	Management Co.: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Telephone #: _____	Telephone #: _____
Inspector (Print): _____	Contact: _____

Asset Number: _____ Property Name: _____

Inspection Date: _____ (mm/dd/yyyy) Address: _____

FDIC Contact: _____ City/State/Zip: _____

General Information

Property Type: **LAND, ALL TYPES INCLUDING LAND ZONED COMMERCIAL, RESIDENTIAL, FARMLAND, ETC.**

Land Area: _____

Known or Observed Code Violations: _____

Known or Observed Environmental Conditions: _____

(Check for Spills, Contaminated Soil, Chemicals) _____

(Check for Water Accumulation, Wetland Areas) _____

(Check for Fuel Tanks Above or Below Ground) _____

(Check for Landfills & Environmental Hazard Signs) _____

Comments:

Photos Taken and Submitted? _____ (Y/N)

Inspected By: _____ (Sign)

Inspection Date: _____

I. PROPERTY DESCRIPTION**Briefly Describe the Property:**

--

II. PROPERTY OBSERVATIONS**A. Accessibility:**

- i. Is the property accessible from a road? _____
- ii. What is the condition of the road? _____
- iii. Can a vehicle enter onto the property? _____
- iv. Is the property landlocked? _____
- v. Are there sidewalks? _____

Comments:

--

B. Fencing:

- i. Is part/all of the property fenced? _____
- ii. What portion is fenced? _____
- iii. Fence Type: _____
- iv. Condition of the fence(s): _____

Front? _____

Front? _____

Front? _____

Front? _____

Back? _____

Back? _____

Back? _____

Back? _____

Sides? _____

Sides? _____

Sides? _____

Sides? _____

Comments:

--

C. Visibility:

- i. Is the property visible from a road? _____
- ii. What portion of the property is visible? _____

Comments:

--

D. Signage:**i. Type:**

- a. For Sale
- b. No Trespass/Dumping
- c. Other

Number: _____

Number: _____

Number: _____

Size: _____

Size: _____

Size: _____

Condition: _____

Condition: _____

Condition: _____

ii. Visibility:

- iii. Is signage adequate for the circumstances? _____

Comments:

--

E. Mowing Status:

- i. Has the property been mowed? _____
- ii. Is the property located in a zoned area or a community? _____
- iii. Is the property in compliance with local mowing laws? _____

Comments:

--

F. Improvements:

- i. Have any improvements been made to the property? _____
- ii. Are they habitable? _____
- iii. Do they constitute a nuisance? _____
- iv. Are they secure? _____

Comments:

--

II. PROPERTY OBSERVATIONS CONT'D

G. List Personal Property: _____

List Debris Requiring Removal: _____

If condition is less than acceptable, describe deficiencies:

--

III. ADDITIONAL PROPERTY INSPECTION COMMENTS

A. Liability Issues:

i. Ponds, pools, water retention areas: _____

ii. Steep terrain: _____

iii. Hunting: _____

iv. Well traveled trails: _____

v. Other evident hazards: _____

vi. Fencing required: _____

Comments:

--

B. Other Notes:

--

D. Location: _____

How Does the Location affect the value? _____

E. Marketing:

i. How does the property present itself? _____

V. OTHER COMMENTS: (Special Issues)

--

Instructions: Fill in all items pertaining to the type of property. If the item does not apply, write N/A. If the information is not obtainable, write N/O. Be as complete as possible and do not abbreviate any response. Use attachments for responses requiring additional space. Use "Enter" key to move around on protected sheet!

VI. PICTURES TAKEN

[Insert hard copies and add pages for file copy OR Attach electronically]

RESIDENTIAL PROPERTY INSPECTION REPORT

Inspection Co.: _____	Management Co.: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Telephone #: _____	Telephone #: _____
Inspector (Print): _____	Contact Name: _____

Asset Number: _____ Property Name: _____

Inspection Date: _____ (mm/dd/yyyy) Address: _____

FDIC Contact: _____ City/State/Zip: _____

General InformationProperty Type: **RESIDENTIAL (SFR, CONDO, 1-4)**

Land Area: _____

Structural Improvements: _____

Building Area: _____

Number of Units: _____

Known or Observed Code Violations: _____

Known or Observed Environmental Conditions: _____

(Check for Asbestos, Tile or Insulation, Lead Paint)

Name of Condo/Homeowners Assoc.: _____

Photos Taken and Submitted? _____ (Y/N)

Name of on-site Property Manager: _____

(Name, Address, Phone)

Comments:

List all parties with access to or possession of keys or lockbox combinations:

Are all structures secured? _____ (Y/N)

Is Property Winterized? _____ (Y/N)

If not secured or winterized, list all security issues that need corrective action:

Inspected By: _____

Inspection Date: _____

Occupancy

Is the Property occupied, vacant/open, vacant/locked, boarded? _____

What is the properties condition? (Good, Fair, Poor): _____

Occupant(s) - List Tenants or other occupants by unit number (List all units and indicate if vacant):

<u>Name</u>	<u>Unit Number</u>	<u>Phone Number</u>	<u>Tenant/Previous Debtor</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If more occupants are present, attach additional Pages)

Comments:**I. PROPERTY DESCRIPTION****Briefly Describe the Property:****II. EXTERIOR OF THE STRUCTURE(S)****A. Structure(s):**

i. Type: _____

ii. Condition: _____

B. Painted Surfaces:

i. Type: _____

ii. Condition: _____

C. Foundation:

i. Type: _____

ii. Condition: _____

D. Exterior Glass Condition:

E. Roofs:

i. Type: _____

ii. Condition: _____

F. Air Conditioning Units:

i. Brands: _____

ii. Tonnage: _____

iii. Condition: _____

Comments:

G. Type of Water System:

i. Type: _____

ii. Condition: _____

II. EXTERIOR OF THE STRUCTURE(S) CONT'D**H. Type of Sewer/Septic System:**

i. Type: _____
 Condition: _____

I. Parking Lots:

i. Type: _____
 ii Condition: _____
 iii. Any Chuck (Pot) Holes? _____
 iv. Are curbs broken? _____
 v. Do they need to be seal coated? _____
 vi. Do they need to be re-striped? _____
 vii. Are there any abandoned vehicles? _____

Comments: _____

J. Landscaping:

i. Overall condition: _____
 ii. Is it neat and clean? _____
 iii. Is it adequate? _____
 iv. Are the beds turned? _____
 v. Are there flowering bed plants? _____
 vi. Is the property properly watered? _____

Comments: _____

K. Trash Removal System:

i. Frequency of pick-up: _____
 ii. Size of containers: _____
 iii. Are they in good condition?: _____

L. Signage:

i. Type: _____
 ii. Condition: _____
 iii. Is it adequate for the circumstances? _____

M. Pool

i. Approximate Size: _____
 ii. Condition: _____
 iii. Diving Board/Slide? _____
 iv. Appearance/Upkeep? _____
 v. Security/Fencing? _____
 vi. Lifeguard/"At Risk" Signs? _____

N. List Exterior Personal Property:

List Debris Requiring Removal:

If condition is less than acceptable, describe deficiencies:

III. INTERIOR OF THE STRUCTURE(S):**A. Smoke Detectors:**

Location:

Operational?:

1 _____
 2 _____
 3 _____
 4 _____

1 _____
 2 _____
 3 _____
 4 _____

Comments: _____

III. INTERIOR OF THE STRUCTURE(S) CONT'D:**B. Utilities:**

		Connected/Disconnected	
i. Water:	_____ (Y/N)	_____	(Y/N)
ii. Gas:	_____ (Y/N)	_____	(Y/N)
iii. Electric	_____ (Y/N)	_____	(Y/N)
iv. Phone	_____ (Y/N)	_____	(Y/N)
v. Cable	_____ (Y/N)	_____	(Y/N)

C. HVAC Systems:

i. Describe: _____

ii. How many units? _____

iii. Operational?: _____ (Y/N)

D. Bedrooms:**Size:****Condition:**

1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
4 _____	4 _____
5 _____	5 _____

E. Bathrooms:**Size:****Condition:**

1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
4 _____	4 _____

F. Garage/Storage Units:**Size:****Condition:**

1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
4 _____	4 _____

G. Other Rooms:**Description:****Size:****Condition:**

1 _____	1 _____	1 _____
2 _____	2 _____	2 _____
3 _____	3 _____	3 _____
4 _____	4 _____	4 _____
5 _____	5 _____	5 _____

H. Basement:

i. Is there a Basement? _____

ii. Is it neat and clean? _____

iii. Are all items properly stored? _____

iv. Are any flammable materials stored there? _____

I. List Interior Personal Property:**List Debris Requiring Removal:**

_____	_____
_____	_____
_____	_____

If condition is less than acceptable, describe deficiencies:**IV. ADDITIONAL PROPERTY INSPECTION COMMENTS****A. Liability Issues:**

i. Is fencing needed to secure any of the property? _____

ii. Balcony/Catwalk issues: _____

iii. Railing issues: _____

iv. Stair conditions: _____

v. Fire escape issues: _____

vi. Smoke detector issues: _____

IV. ADDITIONAL PROPERTY INSPECTION COMMENTS CONT'D

Comments:

--

B. Location:

How Does the Location affect the value?

C. Marketing:

i. How does the property present itself?

V. OTHER COMMENTS: (Special Issues)

--

Instructions: Fill in all items pertaining to the type of property. If the item does not apply, write N/A. If the information is not obtainable, write N/O. Be as complete as possible and do not abbreviate any response. Use attachments for responses requiring additional space. Use "Enter" key to move around on protected sheet!

VI. PICTURES TAKEN

[Insert hard copies and add pages for file copy OR Attach electronically]

APPENDIX III

SALE CASE and FILE MEMORANDUM TEMPLATE

SALES CASE AND FILE MEMORANDUM

TO: _____
CASE NO: 2500089142 Dated: 3/31/2009

DATE: _____
ASSET NO: 12345678901
ORE NAME: _____

CASE EXP DATE: 03/31/2010

NET BOOK VALUE:	\$ <u>1.00</u>	DATE ACQUIRED:	_____
ADJUSTED NET APPROVED VALUE:	\$ <u>1.00</u>	AV DATE:	_____
GROSS OFFER:	\$ <u>1.00</u>	% AV: <u>100.0%</u>	OFFER DATE: _____

PARTIAL SALE: ? FINAL SALE: ?
SPECIFIC DESCRIPTION (Tracts/Lots/Acres): _____
PARTIAL SALES PRICE: \$ _____ PARTIAL AV: \$ _____

PARTICIPATED: ? LEAD: ? % OWNED: N/A

OTHER FDIC RELATED PARTS: N/A IF YES, FDIC 4C NO: #

#

AFFORDABLE HOUSING: ?

DEED TYPE: ☒ SPECIAL WARRANTY DEED ☐ QUIT CLAIM DEED ☐ DEED without WARRANTY ☐ OTHER _____

METHOD OF SALE: ☒ BROKER ☐ SEALED BID ☐ AUCTION ☐ CONTRACTOR ☐ LIQUIDATOR

EARNEST MONEY: ☒ HELD BY BROKER ☐ HELD BY FDIC ☐ HELD BY TITLE CO.

TITLE CO. NAME/ADDRESS OR CLOSING AGENT NAME/ADDRESS: _____

FINANCED: ? IF YES, AMOUNT FINANCED: \$ _____ % OF OFFER: _____

RECOMMENDED:

ORE SALES SPECIALIST _____ DATE _____

MANAGER ORE _____ DATE _____

RESOLUTIONS & RECEIVERSHIPS SPECIALIST _____ DATE _____

APPROVED BY DELEGATED AUTHORITY B2(a), B3(a)(f)(g), B25(i) & B41

RESOLUTIONS & CLOSINGS MANAGER _____ DATE _____

APPENDIX IV

REAL ESTATE PURCHASE AND SALE CONTRACT

And

PURCHASER ELIGIBILITY CERTIFICATION

And

CONFIDENTIALITY AGREEMENT

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State of _____
 LAMIS No. _____

REAL ESTATE PURCHASE AND SALE CONTRACT

{ Instructions throughout the contract are in italics in "{" }" brackets. }

1. **PARTIES:** This Real Estate Purchase And Sale Contract (the "Contract") is entered into by and between the Federal Deposit Insurance Corporation, in the following capacity(ies):

☐ Receiver of _____

☐ in its Corporate capacity.

☐ Manager of the FSLIC Resolution Fund.

☐ Manager of the FSLIC Resolution Fund as Receiver of _____

☐ other _____

hereafter referred to as "Seller,"

and _____ {check one}

☐ an individual, or ☐ a state of {name of state} _____
 {circle one} corporation/partnership/limited liability company/trust ("Purchaser").

2. **PROPERTY:** That certain tract or parcel of land described on ATTACHMENT A affixed hereto and incorporated herein, which parcel of land is to be sold together with all buildings and other improvements situated thereon, all fixtures and other property affixed thereto and all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (the "Property").

3. **PURCHASE PRICE:** Subject to the terms, provisions, covenants and conditions herein contained, Seller hereby agrees to sell and convey and Purchaser hereby agrees to purchase the Property for the purchase price of _____ and no/100 dollars (S _____) (the "Purchase Price"), to be paid in CASH at Closing (as defined in Section 11).

4. **EARNEST MONEY:** An earnest money deposit in the amount of _____ (the "Earnest Money"), equal to the greater of (a) five percent (5%) of the Purchase Price or (b) \$ _____, is herewith tendered by Purchaser and is to be held by Seller. The Earnest Money will be in the form of cash, a cashier's check, or certified funds payable to Seller. The Earnest Money will NOT bear interest at any time. If the sale hereunder is consummated in accordance with the terms hereof, the Earnest Money will be applied against the Purchase Price at Closing. In the event of default hereunder by Purchaser, the Earnest Money will be applied as provided in Section 16.

5. **SURVEY:** If Seller already has in its records a survey of the Property obtained in the normal course of its business, Seller will provide a copy of same to the Purchaser. In no event will Seller be required to furnish a current survey of the Property.
6. **TITLE COMMITMENT AND TITLE POLICY:** As soon as practicable after the Effective Date (as defined in Section 26), Seller will furnish Purchaser a Title Commitment from a title insurance company chosen by Seller and reasonably acceptable to Purchaser (the "Title Company"). At Closing, Seller will provide Purchaser a Title Policy in the full amount of the Purchase Price.

Purchaser will have five (5) days after receipt of the Title Commitment to make written title and survey objections to Seller (the "Objections"). Objections must be limited to matters which substantially and adversely affect title to the Property. If Purchaser does not give Seller written notice of Objections within the time period specified, Purchaser will have waived the right to raise Objections, will accept any and all deficiencies without postponement of Closing (as defined in Section 11), and will close under the terms of the Contract.

If Purchaser timely delivers Objections to Seller, Seller will have until the Closing Date (as defined in Section 11) to cure same. Seller has the right, in its sole discretion, to extend the Closing Date up to ninety (90) days from the original Closing Date in order to resolve Objections (the "Extended Closing Date"). Seller's intention to extend must be provided in writing to Purchaser on or before the Closing Date.

Seller may notify Purchaser at any time that Seller declines to cure one or more of the Objections. Purchaser has five (5) days from the receipt of such declination to make the election described below. If Seller fails to give notice of declination and fails to cure any of the Objections by the Closing Date or the Extended Closing Date, as applicable, Purchaser has five (5) days after such Closing Date or Extended Closing date, as applicable, to make the election described below. The election Purchaser has, in either event described above, is to either (i) terminate the Contract and obtain the Earnest Money per Section 16 of this Contract, or (ii) waive the unsatisfied Objections and complete the purchase under the terms of this Contract. Failure by the purchaser to make an election within the time frame specified in this paragraph will be treated as an election of option (i) above.

7. **INSPECTION PERIOD:** Purchaser will have a period of _____ days from and after the Effective Date to examine the Property and to conduct such physical tests, inspections, surveys, and other investigations as are reasonably necessary to determine whether the Property is suitable for Purchaser's intended purpose (the "Inspection Period"). Purchaser and Purchaser's agents and representatives will have reasonable access to the Property during normal business hours prior to closing. Notwithstanding the above, (a) Purchaser will give Seller reasonable notice of Purchaser's intention to enter onto the Property; (b) Purchaser must obtain written approval from Seller before Purchaser conducts any tests on the Property; and (c) Seller may require that a representative of the Seller accompany Purchaser or its agents while they are on the Property. Purchaser's tests and other inspections will not unreasonably interfere with the use and occupancy of the Property by Seller or Seller's tenants. In the event that the transaction contemplated by this Contract does not close for any reason, Purchaser is obligated to restore the Property to its condition prior to Purchaser's entry. This obligation will survive termination of this Contract. Purchaser will pay for all such tests and inspections.

A copy of every report of every test and inspection conducted by Purchaser on the Property, including but not limited to, any survey and any Environmental Report or Environmental Site Assessment, will be delivered to Seller within five (5) days after such report is received by Purchaser. Purchaser agrees to indemnify Seller, hold it harmless from, and defend it against any claims, causes of action, damages and expenses (including attorney's fees) in any way arising out of (a) Purchaser's or Purchaser's agents' presence on or about the Property, or (b) any test or inspection conducted by Purchaser on the Property. Such indemnity will survive the closing or any termination of this Contract and will not be merged therein.

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If Purchaser reasonably determines that the Property is unsuitable for Purchaser's intended purpose, Purchaser may terminate this Contract by delivery of written notice to Seller prior to the expiration of the Inspection Period. In such event the Earnest Money will be returned to the Purchaser, and thereafter neither party will have any further rights or obligations under this Contract.

Should Purchaser fail to terminate the Contract prior to the expiration of the Inspection Period, Purchaser will be obligated to close the transaction without postponement of the Closing Date, under the terms of this Contract. Any termination of this Contract by Purchaser after the expiration of the Inspection Period will entitle Seller to retain the Earnest Money as liquidated damages as provided in Section 16.

8. **CONVEYANCE OF TITLE:** Seller will convey the Property by Special Warranty Deed (the "Deed") subject to all easements, rights-of-way, exceptions, covenants, conditions, restrictions, encroachments, reservations, encumbrances, access limitations, and all other matters or conditions affecting the Property (including any Objections Seller has declined to cure and Purchaser has waived, per Section 6 above). Any personalty that may be owned by Seller that is situated on the Property at Closing will be conveyed to Purchaser by Quitclaim Bill of Sale.
9. **PROPERTY CONDITION: PURCHASER, BY ITS EXECUTION HEREOF, ACKNOWLEDGES THAT:**
 - (i) **SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER – WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE – AS TO (a) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (b) THE INCOME TO BE DERIVED FROM THE PROPERTY, (c) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (d) THE PROPERTY'S COMPLIANCE WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (e) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (f) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (g) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY, OR (h) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY OTHER THAN THE WARRANTIES OF TITLE IN THE SPECIAL WARRANTY DEED, IF SUCH SPECIAL WARRANTY DEED IS ISSUED. SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS.**
 - (ii) **PURCHASER HAS FULLY INSPECTED THE PROPERTY AND THAT THE CONVEYANCE AND DELIVERY OF THE PROPERTY IS "AS IS" AND "WITH ALL FAULTS."**
 - (iii) **NO WARRANTY HAS ARISEN THROUGH TRADE, CUSTOM OR COURSE OF DEALING WITH PURCHASER. PURCHASER REPRESENTS THAT, PURSUANT TO THE INSPECTION PERIOD (IF ANY), PURCHASER HAS MADE (OR HEREBY WAIVES): (a) ALL INSPECTIONS OF THE PROPERTY DEEMED NECESSARY OR APPROPRIATE BY PURCHASER TO DETERMINE THE PROPERTY'S VALUE AND CONDITION, INCLUDING, WITHOUT LIMITATION, INSPECTIONS FOR THE PRESENCE OF ASBESTOS, PESTICIDE RESIDUES, UNDERGROUND STORAGE TANKS, HAZARDOUS WASTE, AND ANY OTHER HAZARDOUS MATERIALS, AND (b) ALL INVESTIGATIONS**

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TO DETERMINE WHETHER ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD HAZARD AREA AS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS OR OTHER APPLICABLE AUTHORITY. PURCHASER'S INSPECTION OF THE PROPERTY (OR WAIVER THEREOF) WILL RELIEVE SELLER OF ANY LIABILITY TO PURCHASER AS A RESULT OF ANY ENVIRONMENTAL HAZARD ON OR TO THE PROPERTY AND PURCHASER ACCEPTS ALL LIABILITY THEREFOR, AS BETWEEN PURCHASER AND SELLER, AND INDEMNIFIES AND HOLDS SELLER HARMLESS FROM AND AGAINST ANY CLAIMS, LIABILITIES, DEMANDS, OR ACTIONS INCIDENT TO, RESULTING FROM, OR IN ANY WAY ARISING OUT OF SUCH HAZARD. THIS INDEMNITY SURVIVES CLOSING AND WILL NOT BE MERGED WITH THE SELLER'S DEED.

10. **BROKER'S FEE:** By separate document, Seller has agreed to pay a real estate commission (the "Commission") to the real estate agent specified therein (the "Broker"), subject to the closing of this sale and payment of the full Purchase Price to Seller. Broker may agree to pay a portion of the Commission to any other licensed real estate agent but Seller will bear no liability for payment to any agent other than Broker. Purchaser represents to Seller that no real estate broker has been authorized to act on Purchaser's behalf, and Purchaser hereby indemnifies Seller from any claims which have been or may be asserted against Seller as to brokerage or similar fees with respect to the Property.
11. **CLOSING:** The closing and funding of this sale (the "Closing") will be on or before thirty (30) days from the expiration of the Inspection Period (the "Closing Date"). Should the Closing Date fall on a Saturday, Sunday, or legal holiday, Closing will occur on the first business day thereafter. The Closing will take place at the office of the Title Company or, at Seller's option, at the office of Seller. If either party fails to close the sale under the terms of this Contract, the non-defaulting party will be entitled to exercise the remedies provided in Section 16. Any extension of the Closing Date must be in writing and executed by Purchaser and Seller in advance of the scheduled Closing Date, except in the case of the Seller's unilateral extension of the Closing Date as described in Section 6.
12. **POSSESSION:** Possession of the Property in its condition existing at the date of execution hereof, ordinary wear and tear excepted, will be delivered to Purchaser at Closing, subject to the rights or claims of parties in possession or vendors thereto. Delivery of the Deed by Seller and acceptance of the Deed by Purchaser will evidence the assignment by Seller and assumption by Purchaser of all written or oral agreements for lease of the Property and contracts in effect as of the Closing Date. From and after Closing, Purchaser will defend, indemnify, and hold Seller harmless from and against all claims, demands, and actions arising under such leases or contracts.
13. **CLOSING COSTS:** Seller will pay the cost of (i) preparation of the Deed and all other conveyance documents, (ii) one-half of the escrow fees charged by the Title Company, (iii) the premium for the Title Commitment and Title Policy, and (iv) Seller's attorneys' fees. Seller will cause any mortgages, deeds of trust, or other monetary liens recorded against the Property to be released, unless it elects not to cure according to Section 6 above. All other costs and expenses incurred in connection with the sale of the Property will be paid by Purchaser.
14. **PRORATIONS:** At Closing, Seller will deliver or credit to Purchaser all tenant security deposits then actually held by Seller. Seller will have no responsibility for security deposits not held by Seller at Closing. All prepaid rents, prepaid expenses, and accrued but unpaid expenses incurred in connection with the operation or maintenance of the Property will be prorated between Purchaser and Seller as of the Closing Date. Seller will be credited at Closing with the amount of any and all deposits held on behalf of Seller by utility companies with respect to the Property. All ad valorem taxes and assessments assessed against the Property will be prorated between Seller and Purchaser as of the Closing Date. Any proration will be final and not adjustable unless Seller challenges the assessed value of the Property for the year of Closing. If such challenge results in a reduction of the taxes for the year of Closing, then Seller will (i) notify Purchaser, (ii) provide Purchaser

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a recalculation of the proration based on the revised taxes, and (iii) provide Purchaser evidence of Seller's costs in challenging that year's assessment. Within fifteen (15) days of receipt of such notice and information, Purchaser will reimburse Seller for (i) the difference between the Seller's proration at Closing and the Seller's revised proration, plus (ii) Purchaser's pro rata share of Seller's costs in challenging that year's assessment. Notwithstanding the above, Purchaser will be responsible for all ad valorem taxes, interest, penalties, court costs, title costs, and attorney fees that become due as a result of (a) the transfer of the Property, (b) a subsequent change in the use of the Property, or (c) the omission of assessments on improvements. There will be no proration of such taxes.

15. **CASUALTY LOSS:** In the event of damage or destruction of the Property by fire or other casualty prior to the Closing Date, which results in a loss exceeding twenty percent (20%) of the Purchase Price. Purchaser, within five (5) days of notice from Seller of the occurrence of such event, may either (i) receive the insurance proceeds payable as a result of the event and consummate the transaction in accordance herewith, or (ii) terminate this Contract. In the event of termination of this Contract the Earnest Money will be returned to Purchaser. Thereafter neither party hereto will have any further rights or obligations under this Contract.
16. **DEFAULT:** If Purchaser fails to perform any of his obligations hereunder, Seller's exclusive remedy for such default is (a) termination of this Contract by written notice to the Purchaser, and (b) retention of the Earnest Money as liquidated damages. If Seller fails to perform any of its obligations hereunder, Purchaser's exclusive remedy for such default is (a) termination of this Contract and liquidated damages as follows: (i) refund of the Earnest Money, and (ii) reimbursement by the Seller of Purchaser's documented out-of-pocket expenses, not to exceed \$1,000.00. The liquidated damages specified in this Section are not penalties, rather they are reasonable estimates of the cost to the Seller of holding the Property off the market, and the cost to the Purchaser of the lost transaction.
17. **PROHIBITED PURCHASER:** Purchaser acknowledges that certain persons are prohibited from purchasing assets from Seller. Purchaser also acknowledges that under certain circumstances, Seller will not sell assets to certain persons. Accordingly, prior to the execution hereof, Purchaser has completed and executed the Purchaser Eligibility Certification (the "PEC") attached here to as ATTACHMENT B. Purchaser represents and warrants that the completed PEC is true and correct, and acknowledges that Seller is relying on the truth and accuracy of the completed PEC.

Any incorrect information on the PEC will constitute a breach of this Contract by the Purchaser. Should the Seller determine prior to Closing that any portion of the Purchaser's completed PEC is incorrect, Seller may terminate the Contract and retain the Earnest Money per Section 16 of this Contract and may pursue other sanctions provided by law.
18. **CONFIDENTIALITY:** Prior to the execution hereof, Purchaser has completed and executed the Confidentiality Agreement attached hereto as ATTACHMENT C. Any breach of the Confidentiality Agreement by Purchaser will be a default hereunder, as provided in Section 16.
19. **ATTORNEYS' FEES:** In any legal proceeding brought under or with relation to this Contract, the prevailing party will be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.
20. **AUTHORITY TO EXECUTE:** Only an FDIC employee who is an Attorney-in-Fact for the FDIC acting in the capacity stated in Section 1 is authorized by the FDIC to execute this Contract.
21. **SURVIVAL:** Sections 9, 10, 14, 23 and 27 of this Contract will survive the Closing and the delivery of the Deed and other conveyance documents from Seller to Purchaser. All of the terms and conditions of Sections 9, 10, 14, 23, and 27 will be and remain in full force and effect between the parties hereto.
22. **MODIFICATION:** This Contract supersedes any and all prior discussions, communications, and agreements between the Seller and the Purchaser, if any, with respect to the purchase of the Property and other matters

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contained herein. This Contract contains the sole and entire understanding between the parties hereto with respect to the transaction contemplated herein. This Contract will not be modified or amended except in writing executed by the Purchaser and Seller.

23. **APPLICABLE LAW:** This Contract will be governed by and construed and enforced in accordance with the laws of the United States of America, and to the extent that state law would apply under applicable federal law, the state in which the Property is located.
24. **TIME:** Time is of the essence of this Contract.
25. **NOTICES:** All notices, requests, demands, or other communications required or desired to be given hereunder will be in writing and either delivered by (a) hand, (b) telecopier, (c) overnight delivery service, or (d) certified mail, return receipt requested, postage prepaid, to the addresses in the signature section below, and will be deemed given two (2) days after the date mailed, if mailed, one (1) day after the date sent, if sent by overnight delivery service, and on the day delivered if delivered personally to the address set forth or by telecopier to the facsimile (fax) number also set forth below.
26. **EFFECTIVE DATE:** The effective date of this Contract (the "Effective Date") will be the date upon which the last party to sign executes this Contract.
27. **CONSTRUCTION:** Unless stated otherwise, the words "day" or "days" refer to calendar days. Pronouns are used interchangeably herein to refer to masculine, feminine, or neuter antecedents. Purchaser waives the presumption that ambiguities, if any, will be construed against the drafting party. This Contract will be construed liberally and not in favor of the non-drafting party.
28. **ATTORNEY CONSULTATION:** The parties acknowledge and agree that this is intended to be a legally binding contract. The parties further acknowledge that federal law may impose certain duties upon brokers or signatories to this Contract when any of the signatories is a foreign party, or when any of the signatories receives certain amounts of U.S. currency in connection with a real estate closing. To the extent, if any, that either party fails to understand the effect of any part of this Contract, that party hereby agrees to consult an attorney prior to signing.
29. **STATE SPECIFIC ATTACHMENTS:** The following attachments are affixed and incorporated herewith to conform this Contract to the laws of the state in which the Property is located:
{If none of the attachments listed below are used, write "None" on the first line.}
 - ☐ ATTACHMENT NO. D: _____
 - ☐ ATTACHMENT NO. E: _____
 - ☐ ATTACHMENT NO. F: _____
 - ☐ ATTACHMENT NO. G: _____
 - ☐ ATTACHMENT NO. H: _____
30. **INDIVIDUAL LIABILITY.** The individual signing this Contract purportedly on behalf of a corporation, partnership, limited liability company, or trust will be bound under this Contract in his or her individual capacity unless, prior to Closing, the individual complies with requirements that the Seller deems necessary or appropriate to insure conveyance of title to the named entity.
31. **DISCLOSURES.** As required by applicable law, the following disclosures are attached to this Contract, and the terms thereof are incorporated herein:

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[] ATTACHMENT NO. I:

Lead-Based Paint Disclosure. If the Property includes any interest in real property on which a residential dwelling was built prior to 1978.

[] ATTACHMENT NO. J:

Other Environmental Matters. Other environmental matters require disclosure in connection with the conveyance of the Property to the Purchaser.

IN WITNESS WHEREOF, the parties have affixed their signatures hereto on the dates set forth beneath their signatures.

PURCHASER:

{Individual Purchaser signs here. Entity Purchaser prints or types entity's name here.}

By: _____

{Entity's representative signs here.}

Name of Entity Purchaser's representative printed or typed: _____

Title of Entity Purchaser's representative: _____

Individual Purchaser's Name Printed or Typed: _____

Address: _____

{Use street address only. A Post Office Box address is NOT acceptable.}

Phone Number: _____

Fax Number: _____

Tax ID Number: _____

Date: _____

SELLER:

Federal Deposit Insurance Corporation, in the capacity stated above.
 1910 Pacific Avenue
 Suite 1200
 Dallas, Texas 75201

By: _____

Name: _____

Its: Attorney in Fact

Phone: _____

Fax: _____

Date: _____

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ATTACHMENT A

(As Referred to in Section 2 of the Contract)

PROPERTY DESCRIPTION

u:\word\Attachments to Mass Marketing Contracts - 1999.doc

ATTACHMENT BOMB Number: 3064-0135
Expiration Date: 02/13/2003**PURCHASER ELIGIBILITY CERTIFICATION**

Sale Number(s): _____

The purpose of the Purchaser Eligibility Certification is to identify Prospective Purchasers who are not eligible to purchase assets of failed financial institutions from the Federal Deposit Insurance Corporation under the laws, regulations and policies governing such sales. Completion of the Purchaser Eligibility Certification, **without modification**, is a prerequisite to any such purchase.

DEFINITIONS

Affiliated Business Entity. An Affiliated Business Entity of a Prospective Purchaser means its spouse, dependent child or any member of its household; or any entity that directly or indirectly is under the control of the Prospective Purchaser, controls the Prospective Purchaser or is under common control with the Prospective Purchaser.

Associated Person. An Associated Person of a Prospective Purchaser who is an individual is (1) the Prospective Purchaser's spouse or dependent child or any member of the household, (2) a partnership in which the Prospective Purchaser is or was a general or limited partner, or (3) a corporation of which the Prospective Purchaser is or was an officer or director. An Associated Person of a Prospective Purchaser that is an entity is (1) any individual or entity that, acting individually or in concert with one or more individuals or entities, owns or controls 25 percent or more of the Prospective Purchaser; or (2) a managing or general partner of the Prospective Purchaser.

Contractor. A Contractor is any individual or entity that has submitted an offer to the FDIC to perform services or has a contractual arrangement with the FDIC to perform services.

Delinquent Obligation. A Delinquent Obligation is any debt or duty to pay money to the FDIC in excess of \$50,000 (in the aggregate for all such debts or duties) that is more than 60 days delinquent, or any other failure to comply with the terms and conditions of a written agreement with the FDIC that continues for more than sixty (60) days following notice. A Delinquent Obligation does not include any debt that has been settled, nor any debt that has been sold or transferred by the FDIC, nor any debt for which the FDIC has reported forgiveness of debt through the issuance of an IRS form 1099, nor any debt discharged in bankruptcy.

Failed Institution. A Failed Institution is any bank or savings association that has been under the conservatorship or receivership of the FDIC or of the Resolution Trust Corporation. It includes any entity owned and controlled by such a bank or savings association.

FDIC. FDIC means the Federal Deposit Insurance Corporation, whether acting in its corporate capacity or as conservator or receiver of a Failed Institution.

Federal Deposit Insurance Corporation
Purchaser Eligibility Certification

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Sale Number
<Insert Number(s)>

Prospective Purchaser. A Prospective Purchaser is any individual or entity that intends to make an offer to purchase assets of a Failed Institution from the FDIC. For all purposes of this Certification, an "entity" includes any entity with a legally independent existence, including, without limitation, a trustee; the beneficiary of at least a 25% share of the proceeds of a trust; a partnership; a corporation; an association; or any other organization or society.

Substantial Loss. A Substantial Loss is (i) any debt or duty to pay money to the FDIC or a Failed Institution that has an outstanding balance of more than \$50,000 and that is more than 90 days past due; (ii) an unpaid final judgment of more than \$50,000 regardless of whether it is forgiven in a bankruptcy proceeding; (iii) a deficiency balance following a foreclosure sale of more than \$50,000 regardless of whether it is forgiven in a bankruptcy proceeding; or (iv) any loss of more than \$50,000 reported on an IRS Form 1099-C (Information Reporting for Discharge of Indebtedness).

ELIGIBILITY CERTIFICATION

The undersigned hereby certifies that all of the following statements are true, correct and complete when made and will be true at closing of the sale.

- A. **FDIC Employees.** Neither the Prospective Purchaser nor any member of the Prospective Purchaser's immediate family (spouse, dependent child, or member of the household) is an employee of the FDIC.
- B. **Delinquent Obligors.** Neither the Prospective Purchaser nor any of its Affiliated Business Entities has a Delinquent Obligation. *Under certain circumstances, the certification required in this paragraph may be waived. For more information about the waiver process and criteria, contact the FDIC sales representative. Note: If the sale is for FDIC real estate owned or items such as furniture, fixtures or equipment, artwork, automobiles or other tangible items, and the bid price will be less than \$250,000 (per item or per pool), then the certification set forth in this paragraph B is not required.*
- C. **FDIC Contractors.** Neither the Prospective Purchaser nor any of its Affiliated Business Entities is a Contractor that has performed services relating to any of the assets that the Prospective Purchaser might buy. *Under certain circumstances, the certification required in this paragraph may be waived. For more information about the waiver process and criteria contact the FDIC sales representative.*
- D. **Officers or Directors of Failed Institutions.** Neither the Prospective Purchaser nor its Associated Person has ever been an officer or director of a Failed Institution who (1) has participated in a material way in one or more transactions that caused a Substantial Loss to any such Failed Institution; and (2) in connection with such Substantial Loss has been found by a court or administrative tribunal, or alleged in a judicial or administrative action brought by the FDIC or any federal or state governmental entity to have (i) violated any law, regulation or order issued by a federal or state banking agency; (ii) breached a written agreement with a federal or state banking agency or with a Failed

Institution; (iii) engaged in an unsafe or unsound practice in conducting the affairs of a Failed Institution; or (iv) breached a fiduciary duty owed to a Failed Institution.

- E. **Debarment from Participation in the Affairs of a Failed Institution.** Neither the Prospective Purchaser nor any of its Associated Person(s) has been removed from, or prohibited from participating in the affairs of a Failed Institution by a final enforcement action by the FDIC or any other federal banking agency (Office of the Comptroller of the Currency, Office of Thrift Supervision, or the Board of Governors of the Federal Reserve System).
- F. **Pattern or Practice of Defalcation.** Neither the Prospective Purchaser nor any of its Associated Person(s) has borrowed money or guaranteed loans in more than one transaction with the intent to cause a loss or with reckless disregard for whether such transactions would cause a loss to any financial institution insured by the FDIC, where these loans, in the aggregate, caused a Substantial Loss to one or more Failed Institutions.
- G. **Convicted of Certain Crimes.** Neither the Prospective Purchaser nor any of its Associated Person(s) (1) has been convicted of committing or conspiring to commit any offense under Section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, 1341, 1343 or 1344 of Title 18 of the United States Code affecting any Failed Institution; *and* (2) has defaulted on any debt or duty to pay money (including any guaranty) owed to the FDIC or any Failed Institution to such an extent that a judgment has been rendered in favor of the FDIC or the property securing the debt has been foreclosed on.
- H. **If Seller Financing Is Used.** Neither the Prospective Purchaser nor any of its Associated Persons (1) has defaulted on any debts or duties to pay money (including any guaranty) to the FDIC or a Failed Institution that, in the aggregate, exceed \$1,000,000, to such an extent that a judgment has been rendered in favor of the FDIC or the property securing the debt has been foreclosed on; *and* (2) has made any fraudulent misrepresentations in connection with any of these debts or duties. *This representation is not required, and has no effect, if the Prospective Purchaser does not finance any portion of the purchase price through financing offered by the FDIC.*
- I. **Transactions Structured to Circumvent this Certification.** Neither the identity nor form of the Prospective Purchaser, nor any aspect of the contemplated transaction, has been created or altered with the intent, in whole or in part, to allow an individual or entity who otherwise would be ineligible to purchase assets from the FDIC to benefit directly or indirectly from the proposed transaction.

PROSPECTIVE PURCHASER INFORMATION

Name of Prospective Purchaser			☐ Individual ☐ Partnership ☐ Corporation ☐ Trust	
Physical Street Address (For Overnight Delivery)			Tax Identification Number or SSN	
City	State	Zip	E-Mail Address	
Contact Person and Title				
Telephone Number of Contact Person ()			Fax Number of Contact Person ()	

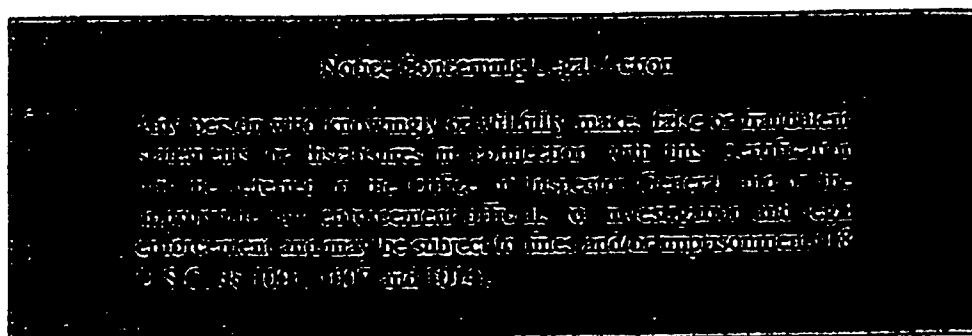
IN WITNESS WHEREOF, the undersigned has executed this Certification as of this _____ day of _____.

PROSPECTIVE PURCHASER

[Print Name of Prospective Purchaser]

[Signature]

[Print Name and Title of Authorized Signatory]



PRIVACY ACT STATEMENT

Collection of this information is authorized by the Federal Deposit Insurance Act (12 U.S.C. §§1819, 1821, and 1823) and Executive Order 9397. The requested information will be used by the FDIC as a prerequisite to selling assets to Prospective Purchasers to determine if a Prospective Purchaser is ineligible to purchase assets under the laws, regulations and policies of the FDIC. (12 C.F.R. § 340.7; *see also* 5 C.F.R. Part 366; 5 C.F.R. Part 3201).

Disclosure of information on this form may be made to other federal, state or local agencies if a violation of a civil or criminal law is apparent; to individuals involved in the conduct of judicial or administrative proceedings; and to a Congressional office in response to an inquiry made at the request of the individual or in accordance with other "routine uses of records."

ESTIMATED REPORTING BURDEN

Public reporting burden for this collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Assistant Executive Secretary (Regulatory Analysis), Office of the Executive Secretary, Room F-4001, FDIC, Washington, D.C. 20429; and to the Office of Management and Budget, Paperwork Reduction Project (3064-0089), Washington, D.C. 20503. Respondents need not respond to this request for information unless it displays a currently valid OMB Control Number.

Federal Deposit Insurance Corporation
Purchaser Eligibility Certification

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Sale Number
<Insert Number(s)>

ATTACHMENT C

(As referred to in Section 18 of the Contract)

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT ("Agreement") is entered into between _____
 ("Purchaser") and the Federal Deposit Insurance Corporation in the
 following capacity:

- ☐ Receiver of _____
- ☐ in its corporate capacity.
- ☐ Manager of the FSLIC Resolution Fund.
- ☐ Manager of the FSLIC Resolution Fund as Receiver of _____
- ☐ Other: _____

hereafter referred to as the "FDIC."

WHEREAS, the FDIC has offered for sale that certain real property more particularly described in that certain contract between Purchaser and the FDIC of even date (the "Property"); and

WHEREAS, Purchaser has expressed an interest in purchasing the Property and has requested that the FDIC provide Purchaser with certain documents relating to the Property (the "Documents") for review; and

WHEREAS, the FDIC has determined that the Documents may contain confidential information but has agreed to make the Documents available to Purchaser on the terms and conditions set forth herein; and

WHEREAS, Purchaser may conduct certain tests and inspections of the Property and have a survey or surveys made of the property. The results and reports of all such tests, inspections and surveys shall be referred to herein as the "Inspection Documents."

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Purchaser hereby agrees as follows:

Section 1. Term. This Agreement shall become effective as of the date of execution of this instrument and shall terminate as to each portion of the Property upon consummation of the sale of such portion of the Property by the FDIC to Purchaser.

Section 2. Limitation on Use. Purchaser shall use the Documents and the Inspection Documents and the information contained therein solely for the purpose of evaluating the suitability of the Property for purchase, and for no other purpose.

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Section 3. Limited Access. Without the prior written consent of the FDIC, to be granted or withheld in its sole discretion, Purchaser shall not disseminate or divulge to any person or entity, other than as set forth below, the Documents or Inspection Documents or any information contained therein; provided, however, that this limitation shall not apply to any information contained in the Documents or Inspection Documents derived from any source generally available to the public. Purchaser shall limit access to the Documents and Inspection Documents, and any information contained therein, to such persons who have a need to know the information contained in the Documents and Inspection Documents for the purpose of advising Purchaser on the suitability of the Property for purchase or for obtaining a loan. Without the prior written consent of the FDIC, Purchaser shall not, directly or indirectly, contact, seek or attempt to seek any information from any person other than the FDIC regarding the Documents; provided, however, that Purchaser may seek information relating to the Documents from any source generally available to the public.

Section 4. Return of Documents: Purchaser agrees that Purchaser shall ensure that all persons to whom it discloses the Documents, the Inspection Documents and the information contained therein, shall keep same confidential. In the event Purchaser does not purchase the Property, it will destroy all copies of the Documents unless otherwise directed by the FDIC, and it will continue to observe the restrictions on the Inspection Documents set out in Section 3.

Section 5. Other Disclosure. To the extent that Purchaser is required to disclose the Documents or Inspection Documents or any information contained therein pursuant to the requirements of any legal proceeding, Purchaser shall notify the FDIC within one business day of its knowledge of such legally required disclosure. Notice shall be both by telephone and in writing.

Section 6. Liability. If the FDIC determines that Purchaser has breached any provision of this Agreement, the FDIC may, in its sole discretion, exercise any or all legal or equitable rights or remedies to which the FDIC is entitled on account of Purchaser's breach. The FDIC shall not be deemed to have waived any of its rights or remedies on account of its failure, delay or forbearance in exercising any such right or remedy in a particular instance.

Section 7. Indemnification. Purchaser shall defend, indemnify and hold harmless the FDIC from and against any and all claims, demands, causes of action, losses, damages, liabilities, judgments, costs, and expenses (including attorneys' fees) asserted against or incurred by the FDIC as a result of any violation of, or failure to comply with, the provisions of this Agreement by Purchaser or any person to whom Purchaser has disclosed the Documents, the Inspection Documents, or the information contained therein.

Section 8. Release of the FDIC. Purchaser acknowledges and understands that the Documents may have been prepared by parties other than the FDIC, and further acknowledges and understands that the FDIC makes no representation or warranty whatsoever, express or implied, with respect to the content, completeness or accuracy of the Documents. Purchaser hereby releases the FDIC from all claims, demands, causes of action, losses, damages, liabilities, cost, or expenses (including attorneys' fees) asserted against or incurred by Purchaser by reason of Purchaser's reliance on or knowledge of the Documents or any information contained therein or by any other reason.

Section 9. Miscellaneous. This Agreement represents the entire understanding of Purchaser and the FDIC relating to the receipt, use and disclosure of the Documents, the Inspection Documents, and any information contained therein, and may be amended only by written agreement of the FDIC and Purchaser. This Agreement shall apply to and be binding upon Purchaser and its directors, officers, employees, agents, successors, and assigns. The representative(s)

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signing this Agreement on behalf of Purchaser represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind Purchaser. The construction, interpretation and performance of this Agreement shall be governed by the laws of the United States of America, and to the extent that state law would apply under applicable federal law, the laws of the state where the Property is located without regard to conflicts of law principles thereof.

Section 10. The terms of this Agreement shall survive all fact situations except the Purchaser's purchase of the Property from the FDIC, in which event the terms of this Agreement shall expire.

EXECUTED this ____ day of _____, 1999.

PURCHASER:

By: _____

{Signature}

{Print Name}

Title

Address:

FEDERAL DEPOSIT INSURANCE CORPORATION
IN THE CAPACITY STATED ABOVE

By: _____

Attorney-in-Fact

{Print name}

Address:

1910 Pacific, Room 12070
Dallas, Texas 75201

APPENDIX V

ORE APPRAISAL GUIDELINES

**OWNED REAL ESTATE (ORE)
MANAGEMENT AND MARKETING SERVICES**

APPENDIX V TO STATEMENT OF WORK (SOW)

ORE Appraisal Guidelines
May 2009

Property Type	Acceptable Valuation Method	Required Valuation Frequency
All property types < \$100,000	Appraisal or BPO	Every 2 years
1 - 4 family residential ≥ \$100,000 < \$250,000	Appraisal or BPO	Every 2 years
All properties except 1 - 4 family residential ≥ \$100,000 < \$250,000	Appraisal	Every 2 years
All property types ≥ \$250,000 < \$1,000,000	Appraisal	Annually
All property types ≥ \$1,000,000	≥ Appraisals	Annually

APPENDIX VI
ORE DATA SYSTEM DATA FIELDS
(TO BE PROVIDED)

Clauses

Clauses Incorporated By Reference

Clause #	Title	Date
No reference clauses were found for this section.		

Included Clauses

7.3.2-34 - Duty to Deliver or Perform - July 2008

Contractor agrees to perform the services (the "Services") or provide the goods (the "Goods"), in accordance with the terms and conditions set forth herein and in any attachments to the contract.

7.3.2-21 - Description/Specifications/Work Statement - October 2008

The name/description of the goods or services being acquired is as follows:

ORE RBOA - To conduct pre-closing and closing ORE responsibilities, and manage and dispose of ORE assets acquired from failed financial institutions.

The specifications for and the description of the work to be performed under this award are fully detailed in the Statement of Work (SOW), which is included as an attachment in this Section of this award document.

Section E - Inspection and Acceptance

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
No reference clauses were found for this section.		

Included Clauses

7.6.4-01 - Inspection and Acceptance - July 2008

(a) All goods and services shall be subject to inspection and test by the FDIC Oversight Manager, to the extent practicable, at all times and places during the term of the award. All inspections by the FDIC shall be made in such a manner as not to unduly delay the work.

(b) The FDIC shall have 45 business days from the date of Contractor's delivery to determine if such goods and services are in compliance with the requirements of the contract. If any services performed or goods delivered hereunder are not in conformity with the requirements of this Award, the FDIC shall have the right to require Contractor to reperform the services or redeliver the goods in conformity with the requirements of the Award, at no additional increase in total contract amount. When the services to be performed are of such a nature that the defect cannot be corrected by reperformance of the services, the FDIC shall have the right to (1) require Contractor immediately to take all necessary steps to ensure future performance of the services in conformity with the requirements of the contract; and (2) reduce the contract price to reflect the reduced value of the services performed. In the event Contractor fails promptly to reperform the services or redeliver the goods, or to take necessary steps to ensure future performance of the services or delivery of the goods in conformity with the requirements of the Award, the FDIC shall have the right to either (1) by contract or otherwise, have the services performed or the goods delivered in conformity with the contract requirements and charge to Contractor any cost occasioned to the FDIC that is directly related to the performance of such services or the delivery of such goods; or (2) terminate this Award for default as provided in 7.6.6-2, Termination for Default.

(c) Contractor shall provide and maintain an inspection system acceptable to the FDIC covering the goods or services to be delivered or performed hereunder. Records of all inspection work by Contractor shall be kept complete and available to the FDIC during the term of this Award and for such longer period as may be specified elsewhere in this Award.

Section F - Deliveries or Performance

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
No reference clauses were found for this section.		

Included Clauses

7.3.1-10 - Place of Delivery or Performance - July 2008

The place of performance is: On site at a failed institution, at the FDIC's offices or at the Contractor's place of business.

7.3.1-11 - Deliverables - July 2008

The Contractor must provide all deliverables described in the statement of work.

7.3.1-12 - Period of Performance - July 2008

The initial period of performance begins on the date last signed ("Effective Date") and expires on November 13, 2011.

Section G - Contract Administration Data

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
No reference clauses were found for this section.		

Included Clauses

7.3.2-41 - FDIC Personnel - July 2008

(a) FDIC Oversight Manager. The Oversight Manager is the person designated in writing by the Contracting Officer to represent the FDIC for the purpose of monitoring technical performance and accepting goods or services. The Oversight Manager is not authorized to issue any instructions or directions which effect any substantive change in this contract, including, but not limited to, an increase or decrease in the price of this contract, or a change in the delivery date(s) or Period of Performance. Specific areas of delegated authority are more particularly defined in the Oversight Manager Appointment Memorandum. The Oversight Manager is (TBD upon award)

(b) FDIC Contracting Officer. The Contracting Officer is the person with FDIC-delegated authority to enter into, modify, administer, and terminate contracts and orders. The Contracting Officer is Sandy Emerson.

7.5.13-01 - Method of Payment - Electronic Fund Transfer (EFT) - July 2008

(a) Payment methods. Payments by the FDIC may be made by check or electronic funds transfer (EFT), or by a third party in lieu of payment directly from the FDIC, at the option of the FDIC. If the FDIC makes payment by EFT, the FDIC may, at its option, also forward the associated payment information by electronic transfer. Any third party payments will be made by the FDIC's commercial purchase card issuer. In the event Contractor certifies in writing to the payment office that Contractor does not have an account with a financial institution or an authorized payment agent, the FDIC would make payments by other than EFT.

(b) Contractor Payment Requests. If the FDIC elects for third party payments to be made, Contractor shall make payment requests through a charge to the FDIC purchase card with the third party, at the time and for the amount due in accordance with the terms of this contract. Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party are not subject to the Prompt Payment Act or any implementation thereof in this contract. Documentation of each charge against the FDIC's purchase card shall be provided to the Contracting Officer upon request. Contractor is required, as a condition to any payment, to maintain current information in the Central Contractor Registration (CCR) database. Any invoice submitted with incorrect EFT information shall be deemed not to be a proper invoice as defined in the Prompt Payment Act clause herein.

7.5.13-06 - Compensation Ceiling - Contract or Task Order - July 2008

Compensation ceiling will be established at the Task Order level. FDIC compensation to Contractor including any reimbursed costs and expenses, will be for the entire Period of Performance of the Task Order, including the initial period and all options, if any. Contractor must notify the Contracting Officer, in writing, when Contractor has incurred charges amounting to seventy-five percent (75%) of the ceiling amount for each performance period of each Task Order.

7.5.13-12 - Schedule for Invoicing - July 2008

Contractor must submit invoices within ten (10) days after the end of each month for each Task Order issued, upon completion of the service for that billing period.

7.5.13-13 - Contents of Invoice - July 2008

Contractor's invoices must include the following items in order to be processed for payment:

- (a) Contractor name, address and phone number.
- (b) Invoice date. (Contractors must date invoices as close as possible to the date of electronic transmission to FDIC.)
- (c) Invoice number.
- (d) Contract Number (e.g., Contract Number, Task Order Number, Delivery Order Number, etc.)
- (e) Line Item Number(s), as identified in the contract, and the amount invoiced for each Line Item Number.
- (f) Allocation of all hours and expenses to Financial Institution Number (FIN) and Asset Name/Number, if applicable.
- (g) Description, quantity, unit of measure, unit price, extended price of goods delivered or services performed.
- (h) Total invoice amount.
- (i) Payment terms (discount for prompt payment terms).
- (j) Remittance address.
- (k) Billing Point of Contact (e.g., name (where practicable), title, phone number, and mailing address of person to notify if there are questions regarding the invoice).
- (l) Shipping information (e.g., shipment number, date of shipment, bill of lading number and weight of shipment. Shipping charges, if any, must be shown as a separate item on the invoice).
- (m) For time and material or labor hour awards, copies of time sheets in support of direct labor charges.
- (n) If travel expenses are reimbursable under the award, Contractor must submit travel documentation, receipts and other proof of expenses as required by the FDIC Contractor Travel Reimbursement Guidelines.
- (o) If subcontractor expenses are reimbursable under a labor-hour or time-and-material award, Contractor must:
 - (1) identify subcontractor expenses and costs separate from prime contractor expenses and costs on the invoice it submits to FDIC;
 - (2) submit with its invoice, as supporting documentation, a copy of its subcontractor's invoice when seeking reimbursement of subcontractor expenses.
- (p) The following certification statement, signed by an authorized company representative:

"This is to certify that the services set forth herein [goods described herein] were performed [delivered] during the period stated.

Contractor's Authorized Representative Date"

- (q) Any other information or supporting documentation required by the award. If an invoice does not contain the above required information; contains errors; or exceeds the total compensation ceiling limit for this award, the

invoice will be returned to Contractor and processing of the invoice for payment will be delayed until the deficiency is corrected. In addition, the FDIC requires Contractors to maintain current information in the Central Contractor Registration (CCR) database. FDIC may reject any invoice received from Contractor where processing of the invoice cannot be completed because Contractor has failed to maintain its registration, including electronic funds transfer (EFT) information, in the CCR database.

7.5.13-15 - Electronic Invoice Preparation and Submission (FDIC Dallas Office) - July 2008

Contractor must follow the FDIC's electronic invoice preparation and submission instructions stated below:

- (a) Contractor must email electronic invoices to the FDIC's (see also Department of Finance/Accounts Payable (DOF/AP)) at the following address: APDL@fdic.gov
- (b) Contractor must only email their invoices to the above DOF/AP email address and not the Oversight Manager (OM) or Contracting Officer. The FDIC will not accept hand-delivered invoices or invoices sent to any other address (i.e., FDIC street address or any other email addresses).
- (c) Contractor must submit the electronic invoice as a single file document, in Portable Document Format (pdf). The file should include the exact same information that has been submitted physically via mail in the past. (FDIC only wants one electronic file because we will be uploading the single pdf into a database and we only want one file associated with an invoice. However, if the size of a single pdf file exceeds 30 MB, the invoice may either be submitted as two pdf files, with neither pdf file exceeding 30 MB, or it may be submitted as a zip file that does not exceed 30 MB. If two pdf files are used, each email must clearly identify that the invoice has been separated into two pdf files to accommodate the size limitation. If a zip file is used, the individual files inside the zip file must be kept to a minimum and each must have a descriptive file name, such as "Invoice cover page", "Timesheets", etc.)
- (d) Contractor must not include more than one electronic invoice in the same email. (For example, if a Contractor has four task orders, a separate email with a single invoice must be submitted for each of the four task orders.)
- (e) Contractor must name the pdf file or zip file in the following format (with invoice date shown as year/month/date followed by a space and the invoice number):

Invoice date and invoice number (e.g., 2008-01-31 1067876)
- (f) Contractor's email subject line must include the words, "Contractor Invoice", followed by a hyphen and the Contract Number (or Task Order Number, or Delivery Order Number, as applicable), as shown in the example below:

"Contractor Invoice - CORHQ-08-C-0000"
- (g) Task Assignments: For contracts and task orders containing provisions for Task Assignments, a separate invoice must be submitted via a separate email for each Task Assignment.
- (h) The counting of days for Prompt Payment begins on the date the invoice is received in the inbox of the DOF/AP email address, until 4PM. Invoices received after 4PM will be counted as being received the following FDIC workday.

(i) If a contractor/vendor needs to check on the status of an invoice, they can call the Dallas Accounts Payable Unit directly, or send an email to the email address shown at the top of this document. If payment has not been received within the time frame of the contract terms, please follow up to make sure we have received the invoice for processing. We will research and let you know the status.

(j) Dallas AP Contacts:

Tim Hobbs (972) 761-8643

Doreen Bedwell (972) 761-8644

Linda Saville (972) 761- 8221

Section H - Special Contract Requirements

Attachments for this section start after this page.

Federal Deposit Insurance Corporation
CONFIDENTIALITY AGREEMENT
(FOR CONTRACTOR PERSONNEL)

This Confidentiality Agreement is executed this _____ day of _____, 20____, by _____ ("Recipient"), in conjunction with Contract/BOA/RBOA/Task Order No. _____ ("The Contract").

For due consideration given, Recipient agrees to the following:

1. Recipient will protect the confidentiality, integrity and availability of the sensitive information Recipient receives from or is given access to by the FDIC, or may obtain by other means, during the course of performing work on The Contract. Sensitive information is defined in clause 7.5.1-2 of The Contract.

2. Recipient has read FDIC Circular 1360.9, Protecting Sensitive Information – incorporated by reference in The Contract – and will abide by the policy described therein and follow the guidelines given for protecting sensitive information. FDIC Circular 1360.9 is available on the FDIC website: www.fdic.gov/buying/goods/acquisition/index.html.

3. Recipient will use sensitive information only as authorized by FDIC. Recipient will not disclose, release, disseminate or transfer any sensitive information to any other person or entity, except as required in the performance of Recipient's duties under The Contract or with the express prior written consent of an authorized representative of the FDIC.

4. Recipient will immediately notify FDIC of any subpoena or court order requiring Recipient to disclose or produce sensitive information and will cooperate with legal counsel for FDIC in any challenge to or appeal from such a subpoena or court order.

5. This Confidentiality Agreement is made part of The Contract upon execution and is governed by the law set out in Clause 7.3.1-15 "Governing Law" of The Contract.

RECIPIENT (EMPLOYEE) *(Please type or print)*

Name: _____

Title: _____

Signature: _____

ACCEPTED (FDIC) *(Please type or print)*

Name: _____

Title: _____

Signature: _____

Federal Deposit Insurance Corporation
CONFIDENTIALITY AGREEMENT
(FOR CONTRACTORS)

This Confidentiality Agreement is executed this ____ day of ____, 20__, by ____ ("Contractor"), in conjunction with Contract/BOA/RBOA/Task Order No. ____ ("The Contract").

For due consideration given, Contractor agrees to the following:

1. Contractor will protect the confidentiality, integrity and availability of the sensitive information Contractor receives from or is given access to by the FDIC, or may obtain by other means, during the course of performing work on The Contract. Sensitive information is defined in clause 7.5.1-2 of The Contract.

2. Contractor has read FDIC Circular 1360.9, Protecting Sensitive Information – incorporated by reference in The Contract – and will abide by the policy described therein and will follow the guidelines given for protecting sensitive information. FDIC Circular 1360.9 is available on the FDIC website: www.fdic.gov/buying/goods/acquisition/index.html.

3. Contractor will use sensitive information only as authorized by FDIC. Contractor will not disclose, release, disseminate or transfer any sensitive information to any other person or entity, except as required in the performance of Contractor's duties under The Contract or with the express prior written consent of an authorized representative of the FDIC.

4. The provisions of this Confidentiality Agreement apply to all officers, directors, partners, employees of Contractor. Contractor is responsible for the compliance of these parties with the terms hereof.

5. Contractor is responsible for ensuring, per Clause 7.5.1-2 of The Contract, that its subcontractors protect the confidentiality, integrity and availability of the sensitive information Contractor receives from or is given access to by the FDIC during the course of performing work on The Contract.

6. Contractor will immediately notify FDIC of any subpoena or court order requiring Contractor to disclose or produce sensitive information and will cooperate with legal counsel for FDIC in any challenge to or appeal from such a subpoena or court order.

7. This Confidentiality Agreement is made part of The Contract upon execution and is governed by the law set out in Clause 7.3.1-15 "Governing Law" of The Contract.

Federal Deposit Insurance Corporation
CONFIDENTIALITY AGREEMENT
(FOR CONTRACTORS)

SIGNATURE PAGE

Name of Contractor: _____

By Its Authorized Representative (*Please type or print*):

Name: _____

Title: _____

Signature: _____

ACCEPTED (FDIC) (*Please type or print*):

Name: _____

Title: _____

Signature: _____

Additional Information for 7.4.2-02 (c) IT Security Plan

The IT Security Plan is due within 10 days of the award of the Agreement. A template to assist with the format and documentation requirements of the IT Security Plan is available at the FDIC website: www.fdic.gov/buying/goods/acquisitions/index.html. In lieu of using the template, the Contractor may modify and submit its existing IT Security Plan, provided the modified Plan accommodates the requirements of the FDIC. Also, in place of an IT Security Plan, the Contractor may provide a copy of any information technology based, independent security audit or review covering the systems on which and the facilities where FDIC information will be processed and stored. Examples would include a “Statement of Auditing Standards No. 70 Type II (SAS 70 Type II)” or “International Organization for Standards/International Electro-technical Commission 17799 Assessment (ISO/IEC 17799)”

Clauses

Clauses Incorporated By Reference

Clause #	Title	Date
No reference clauses were found for this section.		

Included Clauses

7.3.2-36 - Task Order - July 2008

At any time during the Period of Performance, the Contracting Officer may send to Contractor, and any other Contractors awarded this Receivership Basic Ordering Agreement (RBOA), a Request for Task Order Proposal (the "Request") describing the nature of one or more specific tasks, the structure for Contractor's offer and any other information relating to the task. Task orders under this Agreement will be awarded based using the following method(s):

Rotational: Contractors will be placed in a queue established on the basis of their price-fee proposals. The queue will list contractors from lowest to highest price-fee with the lowest price-fee contractor listed first. Task orders will be issued on a rotational basis beginning with the first contractor in the queue. This method will be the primary method used to award task orders.

Direct Award: FDIC reserves the right to issue a task order directly, outside of any rotation. A contractor receiving a direct award will be placed at the end of the queue for the next rotational award.

Competition: FDIC may compete the award of a particular task order among all contractors holding this Agreement. Both price-fee and technical capability may be evaluated. A contractor awarded a task order through competition will be placed at the end of the queue for the next rotational award.

If Contractor wishes to offer its goods or services for the task, it must deliver an offer pursuant to the terms of the Request. Based on the offers received, the FDIC may select one or more contractors to perform the tasks. The task order must be executed by Contractor and the FDIC Contracting Officer after which there will exist a binding obligation between Contractor and the FDIC under the terms of the Agreement and the task order for delivery of the goods or services described therein. The task order format [To be provided upon award], may change during the period of performance of this Agreement.

7.3.2-43 - Key Personnel - July 2008

(a) The following key personnel are essential to the proper performance of Contractor's duties under this contract:

Name	Title
_____ [TBD upon Award] _____	_____
_____	_____
_____	_____

(b) Contractor must make the above named key personnel available for performance under this contract as long as

such persons are employed by Contractor or its related entities. All key personnel changes must be authorized in writing by the FDIC Contracting Officer prior to the new key personnel beginning work. Contractor must give a minimum of a 14-day advance written notice to the FDIC Contracting Officer of any proposed substitutions of key personnel. The notice must describe the reason for the proposed change; give the name of the proposed substitute individual with a description of his educational and professional background; and include a completed background investigation questionnaire. The determination of acceptability of proposed substitute personnel is in the sole discretion of the FDIC.

7.4.2-01 - Security and Privacy Compliance for IT Services - July 2008

(a) Security and Privacy Compliance. The Contractor is responsible for Information Technology (IT) security for Contractor Personnel and subcontractor personnel granted access to the FDIC network, and for their use of systems connected to the FDIC network, and for those systems developed, maintained, implemented or operated by the Contractor for FDIC. All IT products and services provided by the Contractor shall comply with all FDIC information security and privacy directives, policies and requirements unless Contractor obtains a written waiver from FDIC Information Security/Privacy staff.

(b) Laws and Standards. All IT products and services provided by the Contractor must comply with Federal laws and standards addressing information security. These include:

- (1) The Privacy Act of 1974 (5 U.S.C. 552a) as amended (if incorporated in the contract);
- (2) Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources (Transmittal Memorandum No. 4) including Appendices;
- (3) E-Government Act of 2002 (P. L. 107-347) including Title II, Section 208 - Privacy Provisions and Title III - Federal Information Security Management Act of 2002 (FISMA), and related OMB guidance; and
- (4) National Institute of Standards and Technology (NIST) Federal Information Processing Standards (FIPS) and Special Publications.

(c) FDIC Policy and Guidance. All IT products and services provided by the Contractor shall address information security and privacy requirements throughout their design, development, implementation, maintenance, operation, and termination as provided in FDIC system development life cycle policy and guidance. This includes completing or providing the necessary information for the FDIC to complete privacy impact assessments, security assessments, risk assessments, security plans, contingency plans, and other security and privacy artifacts as required.

(d) Subcontracts. Contractor must include this clause in all its subcontracts to which the conditions and requirements described in this clause would apply. Contractor also must require its subcontractors (first-tier) to include this clause in any of their subcontracts (second-tier) to which the conditions and requirements of this clause would apply.

7.4.2-02 - Off-site Processing and Storing of FDIC Information - July 2008

(a) Protection of Information. The Contractor shall implement adequate administrative, technical, physical and procedural security controls to ensure that all FDIC information in its possession or under its control is adequately protected from loss, misuse, and unauthorized access or modification. The collection, use, transmission, and disclosure of FDIC information shall comply with all federal and state privacy laws and FDIC rules and regulations regarding privacy. The Contractor shall further ensure that FDIC PII is separated both physically and logically from Contractor's data. The Contractor shall not use any FDIC information except to the extent necessary to carry out its

obligations under the contract. Contractor shall not disclose FDIC information to any third party unless disclosure is authorized in the contract or Contractor obtains the prior written consent of the Contracting Officer.

(b) Control of Information. All FDIC information remains the property of FDIC. At any time, upon request of the Contracting Officer, Contractor shall promptly retrieve and deliver to FDIC all FDIC information, or any portion of information as specified by FDIC, under the Contractor's control or in its possession. Information shall be provided in a format and on media as agreed by both parties. Under no circumstances is the Contractor permitted to withhold any FDIC information. Upon completion or termination of the contract, or at any time the Contracting Officer requests it in writing, Contractor shall return, erase, or destroy all FDIC information on any media under its control or in its possession, as FDIC directs.

(c) IT Security Plan. The Contractor shall implement and maintain the approved IT Security Plan (or the approved security audit or review), which is hereby incorporated into the contract, for the duration of the contract. The Contractor must demonstrate its continued compliance with the controls, processes and procedures described in the IT Security Plan (or the security audit or review) throughout the term of the contract, as FDIC may request.

(d) Inspections/Assessments. The Contractor shall allow and cooperate with both scheduled and unannounced inspections and assessments of its facilities, personnel, hardware, software and its security and privacy practices by either the FDIC information technology staff, the FDIC Inspector General, or the U.S. General Accountability Office (GAO). These inspections may be conducted either by phone, electronically or in-person, on both a pre-award basis and throughout the term of the contract or task order, to ensure and verify compliance with FDIC IT security and privacy requirements.

(e) Monitoring and Incident Response. The Contractor shall monitor its facility and premises for security and privacy incidents and provide the capability to respond to and resolve them effectively and in a timely manner. All security and privacy incidents that involve FDIC information must be immediately reported to FDIC's Computer Security Incident Response Team (CSIRT).

(f) Contact Information. The Contractor shall provide a point of contact (name, telephone number, e-mail address) with whom the Contracting Officer, Oversight Manager, and FDIC Information Security and Privacy Staff may communicate throughout the duration of the contract about information security and privacy issues.

7.4.2-03 - Data Connection - July 2008

(a) Pre-connection Requirements. Prior to the establishment of data connections, Contractor shall allow and cooperate with FDIC to conduct physical review(s) of Contractor premises and facilities. The Contractor shall execute an Interconnection Security Agreement/Memorandum of Understanding with FDIC prior to establishing any data connection between the FDIC network and Contractor facility.

(b) FDIC Network Segments. If the FDIC network is extended into the Contractor's facility, the Contractor shall connect only FDIC-provided or FDIC-approved hardware containing FDIC-provided software to that FDIC-network segment unless prior written waiver and approval of the FDIC Oversight Manager and FDIC information technology staff has been received. Vendor-issued security patches shall be applied promptly to operating system and other software running on network-attached hardware. The Contractor shall keep all FDIC network equipment located in Contractor's facilities in a secured area with controlled access. The Contractor, at all times, shall isolate all FDIC-network segments and associated equipment located at the Contractor's facility from any non-FDIC networks

located at the same facility. FDIC-network segments shall not be connected to non-FDIC network segments. Equipment (desktops, laptops, printers, etc.) shall not be simultaneously connected to both FDIC and non-FDIC networks.

7.4.2-04 - Privacy Requirements for External Web Applications and Content - July 2008

(a) The Contractor shall ensure that each publicly accessible web site that is developed or maintained for FDIC under this contract conforms to the privacy requirements of the E-Government Act of 2002 (44 U.S.C. Ch. 36). The web site shall not use persistent cookies or other persistent tracking devices, although session cookies may be used. The home page, all major entry points into the web site, and all web pages that collect personal information shall include a hyperlink labeled "Privacy Policy" that links to the FDIC's privacy policy located on FDIC.gov.

(b) The Contractor shall provide access to FDIC for the purpose of performing scans or conducting other verification techniques to ensure the above requirements are met.

7.5.1-02 - Protecting Sensitive Information - March 2009

(a) Protecting Sensitive Information. Contractor, all Contractor Personnel, subcontractors and subcontractor personnel shall comply with FDIC Circular 1360.9, Protecting Sensitive Information, and protect the confidentiality, integrity and availability of sensitive information, including personally identifiable information (PII), to which they have access. FDIC Circular 1360.9 is available at the FDIC website:
www.fdic.gov/buying/goods/acquisition/index.html

(b) Controlling Sensitive Information. All sensitive information, electronic and paper copy, remains the property of FDIC. If Contractor or Contractor Personnel moves or copies sensitive information to Contractor's facilities or equipment, they must maintain and store it separately, both physically and logically, from all non-FDIC information. Upon completion or termination of the contract, or at any time the Contracting Officer requests it in writing, Contractor must return, erase, or destroy all sensitive information on any media under its control or in its possession, as FDIC directs.

(c) Sensitive Information Defined. Sensitive information is any information, the loss, misuse, or unauthorized access to or modification of which could adversely impact the interests of FDIC in carrying out its programs or the privacy to which individuals are entitled. It includes the following:

(1) Information that is exempt from disclosure under the Freedom of Information Act, such as trade secrets and commercial or financial information, information compiled for law enforcement purposes, personnel and medical files, and information contained in bank examination reports;

(2) Information under the control of FDIC contained in a Privacy Act system of record that is retrieved using an individual's name or by other criteria that identifies an individual;

(3) PII about individuals maintained by FDIC that if released for unauthorized use may result in financial or personal damage to the individual to whom such information relates. Sensitive PII, a subset of PII, may be comprised of a single item of information (e.g., SSN) or a combination of two or more items (e.g., full name along with, financial, medical, criminal, or employment information). Sensitive PII presents the highest risk of being misused for identity theft or fraud; and

(4) Information about insurance assessments, resolution and receivership activities, as well as enforcement, legal, and contracting activities.

(d) Confidentiality Agreement. The Contractor and all Key Personnel working on the contract each must sign a confidentiality agreement, the two forms of which are included as attachments to this contract. The company-level confidentiality agreement must be signed by an authorized representative of the Contractor and delivered to the Contracting Officer at the time of award, with the signed contract. The Contractor must deliver the confidentiality agreements signed by Key Personnel to the Contracting Officer no later than five (5) business days after starting performance and prior to receiving any sensitive information. Key Personnel who do not sign a confidentiality agreement will not be permitted to perform work on the contract.

(e) Subcontracts. Contractor must include this clause in all its subcontracts to which the conditions and requirements described in this clause would apply. Contractor also must require its subcontractors (first-tier) to include this clause in any of their subcontracts (second-tier) to which the conditions and requirements of this clause would apply.

7.5.1-03 - Access to FDIC Information Systems - July 2008

(a) Contractor, all Contractor Personnel, subcontractors and subcontractor personnel granted access to FDIC's network/systems must comply with these FDIC directives:

(1) Information Security and Privacy Awareness Training. FDIC Circular 1360.16 Mandatory Information Security Awareness Training, which requires the completion of on-line FDIC- information security and privacy awareness training and electronic certification of completion within five (5) business days of receiving an FDIC network ID, and annually thereafter until such time as the access is terminated. Failure to complete this training and provide electronic certification within the required timeframes will result in revocation of network/system access privileges and possible removal of contractor personnel from the contract.

(2) Acceptable Use of Information Technology Resources. FDIC Circular 1300.4 Acceptable Use Policy for Information Technology Resources, which outlines the permitted and prohibited uses of FDIC hardware, software, and information technology services.

(3) Passwords. FDIC Circular 1360.10 Corporate Password Standards for password configuration and maintenance requirements, which requires the use of strong passwords, changing passwords at prescribed intervals and the protection of passwords.

(4) Access Control. FDIC Circular 1360.15 Access Control for Automated Information Systems, which governs the granting and revocation of access to automated information systems, including the initial approval, continuing review, and eventual termination of access. Contractor shall promptly notify Oversight Manager and Contracting Officer when personnel join or leave the contract so access may be granted or revoked without delay.

(5) Reporting Security Incidents. FDIC Circular 1360.12 Reporting Computer Security Incidents, which requires reporting to FDIC's Computer Security Incident Response Team (CSIRT) of all suspected or actual security or privacy incidents involving unauthorized access, misuse, tampering, bypassing security controls, alteration, disclosure or theft of information technology resources, data, and passwords .

(b) Subcontracts. Contractor must include this clause in all its subcontracts to which the conditions and requirements described in this clause would apply. Contractor also must require its subcontractors (first-tier) to include this clause in any of their subcontracts (second-tier) to which the conditions and requirements of this clause would apply.

(c) The FDIC Circulars identified in this clause are available on the FDIC website:
www.fdic.gov/buying/goods/acquisition/index.html

7.5.2-03 - Background Investigations - July 2008

a) Any Contractor Personnel or subcontractor personnel who:

- work on-site at and have unescorted access to FDIC offices or facilities, or
- have access to FDIC networks/systems

must undergo a background investigation, in accordance with FDIC Circular 1610.2. In addition, background investigations are conducted on all Contractor Personnel and subcontractor personnel on contracts and other awards for services with a value greater than \$100,000, or on any contract or award at the discretion of the FDIC. The extent of the background investigation conducted will be in direct relation to the risk level assigned either in clause 7.2.2-9, Risk Level Designation - Entire Contract or in clause 7.5.2-10, Risk Level Designation - Labor Category. FDIC Circular 1610.2 is available at the FDIC website: www.fdic.gov/buying/goods/acquisition/index.html

b) Prior to obtaining an FDIC identification/access badge and commencing work under the contract, Contractor Personnel and subcontractor personnel are required to undergo both a fingerprint and a credit check. In addition, Contractor Personnel and subcontractor personnel may be subject to an OPM background investigation, based on the risk level assigned to the contract or to the labor categories. No Contractor Personnel or subcontractor personnel, including any new personnel added at any time during the term of the contract, shall be permitted to begin work until the fingerprint and the credit check processes have been completed and FDIC has rendered a favorable determination, and the paperwork for any further OPM background investigations has been submitted.

c) Contractor must provide the Oversight Manager with the following documents for all Contractor Personnel and subcontractor personnel subject to the background investigation requirement:

- 1) An executed Background Investigation Questionnaire for Contractor Personnel and Subcontractors (FDIC 1600/04);
- 2) An executed Notice and Authorization Pertaining to Consumer Reports (FDIC 1600/10);
- 3) A Fingerprint Card (The contractor must submit FD Form 258 Fingerprint Card or coordinate with the Oversight Manager to schedule fingerprinting by the Security and Emergency Preparedness Section of FDIC.)

FDIC Forms 1600/04 and 1600/10 are available at the FDIC website:
www.fdic.gov/buying/goods/acquisition/index.html

In addition, where the assigned risk level of the contract mandates background investigations by the Office of Personnel Management, the Contractor must provide the Oversight Manager with the completed paperwork for Contractor Personnel and subcontractor personnel needed to initiate an OPM background investigation. The Oversight Manager will notify the Contractor of the method by which to submit the paperwork - either manually, using Standard Form 85P Questionnaire for Public Trust Positions, or via e-QIP (the OPM Electronic-Questionnaires-for-Investigations-Processing system). If any Contractor Personnel or subcontractor personnel have received a background investigation-clearance from another federal agency within the last 5 years, at the

same or a higher risk level as that assigned to this contract, the Contractor may also provide the following to the OM:

A Certificate of Investigation or a Letter of Consent or other documentation from a government agency, verifying the date of the investigation, the investigating agency, the type of investigation completed and the clearance given.

d) Any Contractor Personnel or subcontractor personnel, whose background investigation reveals an adverse finding, may be excluded from working on the contract at the discretion of the Contracting Officer. Contractor is obligated to replace any personnel so excluded with personnel acceptable to FDIC. Replacement of personnel shall be made at no additional cost to the FDIC and without relieving Contractor of performance and delivery requirements of the contract.

e) Contractor must comply with Homeland Security Presidential Directive-12 (HSPD-12) and Federal Information Processing Standard Publication 201 (FIPS 201) entitled "Personal Identification Verification for Federal Employees and Contractors". Contractor Personnel and subcontractor personnel must present two forms of identification in original form prior to badge issuance; at least one document must be a valid State or federal government-issued picture ID. Acceptable forms of identification are listed in Form I-9, OMB No., 1615-0047, Employment Eligibility Verification. In addition, Contractor Personnel and subcontractor personnel must appear in person at least once before an FDIC official who is responsible for checking the identification documents. FDIC will not issue identification/access badges to Contractor Personnel and subcontractor personnel until proof-of-identity has been established.

f) Subcontracts. Contractor must include this clause in all its subcontracts to which the conditions and requirements described in this clause would apply. Contractor also must require its subcontractors (first-tier) to include this clause in any of their subcontracts (second-tier) to which the conditions and requirements of this clause would apply.

7.5.2-09 - Risk Level Designation (Entire Contract) - July 2008

The risk level for this contract is: Moderate. The post-award background investigations for this contract will be done at this risk level.

7.5.2-11 - Identification/Access Badges - July 2008

All contractor and subcontractor employees regularly working on-site at an FDIC facility must be issued an identification/access control badge. Such employees will not be granted on-site access until receiving the badge. Renewal of the badges is required semiannually.

7.5.2-13 - Use of FDIC Premises by Contractor Personnel - July 2008

Contractor shall comply with the FDIC directives governing access to and operations at FDIC offices and facilities, while on FDIC premises. The directives are available at the FDIC website:

www.fdic.gov/buying/goods/acquisition/index.html, or may be obtained from the Oversight Manager. Contractor is responsible for assuring that its personnel understand and observe these directives. Contractor shall perform its contract activities in a manner which does not interrupt or interfere with the business conducted at FDIC.

Subcontracts. Contractor must include this clause in all its subcontracts to which the conditions and requirements described in this clause would apply. Contractor also must require its subcontractors (first-tier) to include this clause in any of their subcontracts (second-tier) to which the conditions and requirements of this clause would apply.

7.1.3-2 - Post-Government Employment Certification (Post-Award) - July 2008

Any former FDIC employee who the contractor intends to use in performance of work under the contract or its subcontracts must complete and submit the post-government employment certification found at FDIC website www.fdic.gov/buying/goods/acquisition/index.html. The certification must be submitted to the Contracting Officer prior to the former employee commencing work under the contract. The FDIC Legal Division Ethics Unit will review the certification to determine compliance with the post-government employment restrictions. The former employee may be required to provide additional information as to their position and responsibilities while employed at FDIC and as a post-government employee working on the FDIC contract or subcontract.

7.3.2-70 - Legal Representation - April 2009

(a) Relationship of Contractor and FDIC Legal Division

The Contractor is hereby designated as a limited agent of the FDIC Legal Division for the sole purpose of assisting the FDIC Legal Division in providing legal services relating to this Contract and ancillary to the performance of the Contractor's duties under this Contract. This designation is in addition to other designations created elsewhere in this Contract and is not intended to supplant the relationships with FDIC personnel created elsewhere in this Contract.

(b) Contact Points

(1) The FDIC shall designate an FDIC Legal Division Attorney to serve as the Contractor's primary point of contact with the FDIC Legal Division.

(2) Contractor shall designate one member of its staff to serve as the FDIC Legal Division's primary point of contact with Contractor.

(c) Contractor's Authority

(1) Subject to the provisions of this Clause, Contractor has the limited authority to select, direct, monitor and pay outside counsel for necessary legal services, including initiating litigation, on legal matters arising from Contractor's obligations under this Contract when:

(i) The estimated legal fees do not exceed \$50,000; and

(ii) The value of the transaction or the amount of the claims involved in the matter is not greater than \$500,000.

For all other legal matters, the Contractor must obtain approval from the FDIC Legal Division to retain outside counsel.

Notwithstanding this limited grant of authority, the FDIC reserves the right to direct and control any legal matter and to modify these procedures, in its discretion.

(2) The Contractor shall not commence any litigation or other legal proceedings, or continue any pre-existing litigation or other legal proceedings:

(i) Involving the foreclosure of a mortgage or deed of trust on single family residential property;

- (ii) Against any financial institution identified by the FDIC in writing to the Contractor;
- (iii) Against any insured depository institution that is in conservatorship or receivership;
- (iv) Against any financial institution identified to the Contractor by the FDIC in which the FDIC, in any capacity, has existing obligations to provide assistance or indemnities;
- (v) In connection with any matter involving one or more of the Special Issues listed in paragraph (h) below; or
- (vi) Against any state or federal banking regulator,

without the prior written approval of the FDIC Legal Division.

(3) Contractor shall notify the FDIC Legal Division about legal matters that are not within the general authority granted to the Contractor and shall coordinate with FDIC Legal Division the selection, retention, direction and monitoring of outside counsel, to the extent and in the manner it requests. To the extent that Contractor is required to obtain approval from the FDIC Division of Resolutions and Receiverships on particular matters or cases, which require the concurrence of the FDIC Legal Division under the delegations of authority, then Contractor shall obtain said concurrence from the FDIC Legal Division.

(4) The FDIC may direct and control any legal action (including litigation, arbitration, or alternative dispute resolution procedure) relating to any matter, upon written notice to the Contractor. Upon receipt of notice, the Contractor shall promptly provide the FDIC Legal Division with copies of all pleadings and other pertinent documents and correspondence. The Contractor shall continue to direct the legal action and protect the FDIC's interests, and shall continue to process payments to outside counsel, until the FDIC Legal Division actually takes control of the action.

(5) The FDIC Legal Division has sole authority to determine outside counsel conflicts-of-interest. If the Contractor perceives or is notified of any actual, apparent or potential conflicts-of-interest involving outside counsel, Contractor shall notify the FDIC Legal Division immediately.

(6) The Contractor is prohibited from hiring any law firm (or any employee, partner or shareholder thereof) which has any financial interest in the Contractor without the prior written approval of the FDIC Legal Division. Financial interest includes, but is not limited to, ownership interest. The prohibition applies to the entire law firm regardless of whether an individual other than the employee, partner or shareholder with the financial interest in the Contractor is expected to perform the legal services.

(d) Contractor's Duties

(1) The Contractor shall consult with the FDIC Legal Division concerning pleadings, case strategies, or the performance of outside counsel, as necessary or as the FDIC Legal Division may request, and shall provide any information it requests.

(2) The Contractor shall immediately notify the FDIC Legal Division of any adverse judgment entered in connection with any matter under this Contract.

(3) The Contractor shall obtain the prior written approval of the FDIC Legal Division before filing an appeal of any judgment entered in connection with any matter under this Contract.

(4) The FDIC and the Contractor acknowledge that the parties have a common interest in the conduct of legal affairs in support of the Contractor's liquidation and servicing activities under the Contract. They further acknowledge that the sharing of confidential and privileged information is sometimes necessary to the performance of the duties of the Contractor. The Contractor shall preserve the confidentiality of all information and documents it receives from the FDIC, FDIC in-house attorneys or outside counsel retained by or on behalf of the FDIC. The Contractor is authorized and required to take all actions necessary to protect all privileges available to the FDIC including, but not limited to, the attorney-client and work product privileges. Contractor agrees to supply FDIC with information and documents needed to protect FDIC's interests in the matters subject to this Contract.

(5) The Contractor is not an authorized agent of the FDIC for acceptance of service of process on the FDIC in any capacity, or on any other regulatory agency or financial institution. If the Contractor is served with a summons, complaint, subpoena or any other legal document that concerns the FDIC, the Contractor shall immediately notify the FDIC Legal Division and comply with its instructions regarding the handling of the documents.

(e) Procedures for Selection of Outside Counsel and Payment of Legal Fees

The Contractor shall:

(1) Only select firms to perform legal services from the FDIC List of Counsel Available (the "LCA"), except for the following limited matters: clear title actions and similar routine legal proceedings frequently used in connection with single-family-mortgage loan servicing. For these limited matters, Contractor may select firms that are not LCA firms, including inherited firms - firms that performed legal work for the failed financial institution prior to its failure - but these firms must still comply with the integrity and fitness requirements of 12 CFR Part 366 and must have no conflicts-of-interest with FDIC (see paragraph (c)(5)). Information about Part 366 and conflicts-of-interest is available at <http://www.fdic.gov/buying/legal/outside/chap2.html>. The Legal Division will supply Contractor with a copy of the LCA.

(2) Use the following factors as selection criteria: the firm's capacity, cost, subject matter expertise, geographic location and reputation, and whether any conflicts-of-interest exist.

(3) Document the selection of a law firm, using the criteria in (2) above, to perform the legal services.

(4) Send a referral letter retaining the law firm to perform the legal services, and retain a copy of the referral letter in the case file.

(5) Monitor legal expenses to determine when estimated legal fees and expenses are expected to meet or exceed the \$50,000 limit referenced in paragraph (c)(1)(i) above; establish a budget for each matter upon initiating a new matter or electing to continue a pre-existing matter, and retain copies of all budgets and estimates of legal fees in the case files.

(6) Direct outside counsel to send its fee bills to Contractor in a timely manner.

(7) Review outside counsel fee bills and make adjustments, as appropriate, before payment.

(i) Contractor is expected to make prudent business decisions in authorizing use of legal counsel and reviewing fee bills for payment. Fees charged by an LCA firm must be in accord with the fee schedule established in its legal services agreement with the FDIC. Contractor must provide written certification on the invoices it submits to FDIC that the legal services were authorized, the legal work was performed, and that the fees are reasonable and appropriate for payment. Markup of legal fees by Contractor is not permitted.

(ii) Contractor will make timely payment directly to outside counsel, unless directed otherwise by FDIC Legal Division. FDIC Legal Division may direct that fee bills related to specific matters or fee bills exceeding certain amounts must be reviewed and approved by FDIC Legal Division prior to payment by the Contractor.

(iii) Unless provided otherwise in the Contract, the legal fees paid by Contractor for legal services obtained under the terms of this Contract are a reimbursable expense under the payment clause of this Contract.

(iv) The FDIC Legal Division always retains the right to audit fee bills and to disallow or recover any fees or expenses.

(8) Notify the FDIC Legal Division immediately, in the event that a dispute relating to law firm performance or fees and expenses claimed by outside counsel arises. The FDIC Legal Division, working in conjunction with the Contractor, will resolve the dispute pursuant to Legal Division policies and procedures.

(f) Use of Minority-Owned and Women-Owned Law Firms

The FDIC Legal Division has engaged certain minority-owned and women-owned law firms under legal services agreements to perform legal services for the FDIC. These law firms are identified on the LCA for easy reference. The FDIC has a strong commitment to equal opportunity under the law. The FDIC Legal Division actively encourages the consideration of these law firms to perform legal services.

(g) Periodic Reports

The Contractor shall provide the following monthly reports to the FDIC Legal Division and the Oversight Manager on the 15th of each month:

(1) New Matters Referred. This report lists each new matter referred to outside counsel during the reporting period. This report should identify the law firm retained, the nature of the work, the asset involved, the amount in controversy, a description of the matter and the estimated legal fees.

(2) Activity Report. This report lists each active matter for the reporting period. This report should identify the case name, the matter type, the amount in controversy, the jurisdiction (for litigation matters, the court; for non-litigation matters, the county and state), and the law firm handling the matter.

The FDIC Legal Division will prescribe the format of these reports and any additional information it may require.

(3) The FDIC Legal Division, in its discretion, may request more frequent reports, particularly as to new matters, as well as occasional ad hoc reports. The Contractor shall comply with these requests for additional reports in a timely manner.

(h) Special Issues List

The Special Issues List, which is provided for illustrative purposes, includes without limitation:

- Actions involving the Federal Deposit Insurance Corporation and another state or federal financial institution regulator or state or federal agency (e.g. State Attorney General enforcing foreclosure forbearance/ restrictions/ moratorium)
- Agency status of FDIC
- Agricultural and Small Business Administration loans
- Bankruptcy proceedings involving a special issue from this list
- Bridge banks
- Challenges to FDIC conservatorship, receivership or corporate powers
- Challenges to or novel applications of the FDIC claims procedure
- Challenges to and interpretations of FDIC or RTC regulations or policy statements
- Conflicts between insolvent institutions
- Constitutional challenges to actions taken by FDIC officials
- Constitutionality of statutes affecting the FDIC or RTC
- Consumer Protection Financial Regulations/Violations (including federal statutes such as HOEPA and the Truth in Lending Act (TILA), and state consumer protection statutes
- Contracts using legal services/counsel (i.e. existing contracts, such as Loan/Asset Servicing Contracts, which allow use of outside counsel/legal services)
- Crime Control Act of 1990 ("CCA")
- Directors and officers liability
- D'Oench Duhme doctrine, and 12 U.S.C. 1823(e)
- Emergency Economic Stabilization Act of 2008
- Employee benefit litigation
- Environmental issues including, but not limited to: CERCLA, RCRA, USTs, asbestos, lead-based paints, wetlands, endangered species, and NEPA
- ERISA
- Executory contracts and leases
- Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA")
- Federal Home Loan Bank Board/FSLIC; especially challenges to powers
- Federal Trade Commission Act
- Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"); especially retroactivity of provisions
- Freedom of Information Act
- FSLIC Resolution Fund
- Guaranteed loans
- Historic properties preservation
- Indemnification of employees, officers or directors of failed institutions
- Jurisdiction, removal, or venue
- Least-Cost test; 12 U.S.C. 1823(c) (4)
- Lender liability
- Letters of Credit
- Loan participations
- Multi-receivership sales initiatives (securitizations, auctions)
- Mutual to stock conversions
- National depositor preference

- National impact: issues that may have national impact
- Privacy Act
- Professional liability causes of action
- Pro-rata vs. pro tanto settlement bar rule
- Prudential mootness
- Publicity: any case likely to generate publicity
- Punitive damages
- Purchase and Assumption documentation
- Qualified Financial Contracts; including derivatives, repurchase agreements, and swaps
- Racketeer Influenced and Corrupt Organizations Act
- Removal of state court appeals
- Repudiation of Contracts where measure of damages, notice, timing or reasonableness may be at issue
- Retroactivity involving FIRREA, CCA or FDICIA
- Section 1821 (j) of the FDI Act
- Section 1825(b) of the FDI Act
- Securities acts: Securities Act of 1933 and Securities Exchange Act of 1934
- Senior Executives: Lawsuits involving agency executives whether as named parties, deponents or witnesses
- Subsidiaries of failed insured depository institutions
- Tax matters - both income tax and property tax
- Termination of pension plans
- Termination of receiverships
- Tort claims that may implicate the Federal Tort Claims Act
- Trust departments.

Section I - Contract Clauses

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
7.3.1-13	OIG Fraud Hotline	July 2008
7.3.1-14	Order of Precedence	July 2008
7.3.2-35	Calendar Days	July 2008
7.3.2-40	Change in Physical Location	July 2008
7.3.2-42	Contractor Personnel	July 2008
7.3.2-44	Representations of Contractor	July 2008
7.3.2-54	Cooperation with the Office of Inspector General	July 2008
7.3.2-58	Limitation on Payment to Influence Certain Federal Transactions	July 2008
7.3.2-59	Warranty Concerning Contingent Fees	July 2008
7.3.2-60	Anti-Kickback Procedures	July 2008
7.3.2-61	Drug-Free Workplace	July 2008
7.3.2-62	Equal Opportunity	July 2008
7.3.2-63	Affirmative Action for Workers with Disabilities	July 2008
7.3.2-64	Affirmative Action for Special Disabled Veterans and Vietnam Era Veterans	July 2008
7.3.2-65	Employment Reports on Special Disabled Veterans and Vietnam Era Veterans	July 2008
7.5.1-01	Privacy Act	July 2008
7.5.6-05	Subcontracting Plan Compliance	July 2008
7.5.8-04	Notice to the FDIC on Damage	July 2008
7.5.8-05	Cost of Insurance	July 2008
7.5.8-11	Liability to Third Persons	July 2008

7.5.9-01	FDIC Exempt from Federal, State, and Local Taxes	July 2008
7.5.11-14	Convict Labor	July 2008
7.5.13-03	Payments Under Labor-Hour Awards	July 2008
7.5.13-05	Payments Under Fixed Unit Price Awards	July 2008
7.5.13-10	Travel Expenses (Reimbursable)	July 2008
7.5.13-11	Fees and Expenses of Subcontractors	July 2008
7.5.13-16	Central Contractor Registration	July 2008
7.5.13-17	Right to Offset Contract Payments Against Delinquent Obligations	July 2008
7.5.13-18	Prompt Payment	December 2008
7.5.14-02	Notice and Certification of Claims	July 2008
7.6.4-03	Risk of Loss or Damage	July 2008
7.6.5-01	Changes	July 2008
7.6.5-03	Stop Work Order	July 2008
7.6.6-01	Termination for Convenience of the FDIC	July 2008
7.6.6-02	Termination for Default	July 2008
7.6.7-01	FDIC Property	July 2008

Included Clauses

7.3.1-15 - Governing Law - July 2008

This contract is governed by Federal law and will be construed accordingly. To the extent State law may apply, in the case where there is no applicable Federal law, the State law that applies is the law of the State in which the FDIC office executing the contract is located (or the law of the District of Columbia for contracts executed by the FDIC office located in the District of Columbia).

7.3.2-33 - Independent Contractors - July 2008

The FDIC retains Contractor as an independent contractor for the sole purpose of performing the services or providing the goods described in this contract. If subcontracting is permitted, the use of the term "Contractor" herein refers to both the Contractor and all Subcontractors at all levels. Contractor must ensure that all Subcontractors adhere to all of the terms and conditions of this contract that have flow-down requirements.

7.3.2-37 - Audit of Records - July 2008

(a) Audit and Inspection Rights. The FDIC, through its Contracting Officer or his designated representative(s), has the right to audit and examine Contractor's records and inspect its facilities. The scope of these rights is described below.

(b) Examination of Costs. Contractor is required to maintain sufficiently detailed records of the costs it incurs in performing this contract. The FDIC has the right to audit and examine Contractor's books and records, and its accounting procedures and practices, regardless of their form (e.g., machine readable media) or type (e.g., data bases, applications software, data base management software,). The FDIC has the right to inspect, at reasonable times, the facilities used by Contractor during performance of the contract.

(c) Reports. If Contractor is required to furnish cost, funding or performance reports, the FDIC has the right to audit and examine Contractor's books, records, other documents and supporting materials to evaluate (1) the data underlying the reports and (2) the effectiveness of Contractor's policies and procedures to produce data compatible with the objectives of these reports.

(d) Comptroller General.

(1) The Comptroller General of the United States, or his authorized representative, shall have access to and the right to examine any of the contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder for a period of three (3) years following final payment under the contract.

(2) The period of access and examination is automatically extended for records relating to claims or litigation arising from the performance of this contract, or costs and expenses of this contract to which the Comptroller General has taken exception, and continues until all claims, litigation, appeals or exceptions are resolved.

(3) This paragraph may not be construed to require contractors or subcontractors to create or maintain any record that the contractor or subcontractor does not maintain in ordinary course of business or pursuant to a provision of law.

(e) Retention Requirement. Contractor must retain the materials described in paragraphs (b) and (c) above for three (3) years following final payment under this contract, or for any longer period required by statute or another clause in this contract. Contractor must make the materials available to the FDIC for audit, examination and reproduction, at reasonable times during the retention period. Contractor must also provide the FDIC with working space at its facilities to conduct the audit and examination. If this contract is terminated, completely or partially, Contractor must maintain the materials described in subparagraphs (b) and (c) above for three (3) years following any final settlement Contractor must maintain, and make available to the FDIC, records relating to appeals under the "Disputes" clause of this contract, or to claims or litigation arising under or from this contract, until the appeals, claims or litigation are resolved.

(f) Computer Data. Contractor may transfer computer data in machine readable form from one reliable computer medium to another. Contractor's computer data retention and transfer procedures must maintain the integrity, reliability and security of the original data. Contractor's choice of media affects neither Contractor's obligations nor the FDIC's rights under this clause.

(g) Subcontracts. Contractor is required to insert a clause containing all the terms of this clause, including this subparagraph (g) - altered as necessary to identify properly the contracting parties and the Contracting Officer under the FDIC prime contract - in all subcontracts under this contract that exceed \$100,000.

7.3.2-53 - FDIC Contracting Capacity - July 2008

FDIC is acting in any of its various capacities for this award and will execute it in this capacity throughout the period of performance.

7.3.2-57 - Public Release of Contract Award and Advertising and Publicity Information - December 2008

(a) The Contractor, its affiliates, agents or subcontractors, and their respective employees shall not issue press releases or provide other information to the public regarding any FDIC contract award.

(b) The Contractor, its affiliates, agents or subcontractors, and their respective employees shall not make statements to the media or issue press releases regarding their services under this Contract.

(c) The Contractor may not issue or sponsor any advertising or publicity that states or implies the FDIC endorses, recommends or prefers the Contractor's services. Contractor may not use the FDIC's logo or other FDIC material or refer to the FDIC in its advertising and publicity materials without the prior written approval from the Contracting Officer and the FDIC Office of Public Affairs. All requests for such action must be submitted at least 30 days prior to the scheduled release of advertising or publicity materials, to the FDIC Contracting Officer who will coordinate with the FDIC Office of Public Affairs. The Contracting Officer will notify the Contractor of the final decision.

(d) The Contractor agrees to include this clause in all its subcontracts under this contract.

7.3.2-69 - Joint and Several Liability - July 2008

If Contractor is organized as a joint venture, the liability of the members of the joint venture in connection with all duties, obligations and liabilities under this Contract is joint and several.

7.5.5-01 - Option Period - July 2008

The period of performance may be extended, at the discretion of the FDIC, for (3) three 2-year options ("Option Period(s)"). Except where specifically indicated otherwise, "Period of Performance" as used hereafter in this Agreement refers both to the initial Period of Performance and to any Option Period which may be exercised.

7.5.5-02 - Notice of Exercise of Option - July 2008

If the FDIC desires to exercise the option to extend the Period of Performance, the FDIC must notify Contractor, in writing, of its intent not less than sixty (60)days before the expiration of the current Period of Performance.

7.5.6-03 - Subcontracting Reporting (BOAs or RBOAs) - July 2008

If subcontracting is approved at the task order level, the Contractor must submit a subcontracting report, on a monthly basis by task order, addressing the following for each subcontractor:

- a. Subcontractor's Name, address, and DUNS number
- b. Subcontractor's Type of business concern [Minority or Women Owned Business (MWOB) or Small Disadvantaged Business (SDB), including ethnicity].
- c. North American Industry Classification System (NAICS) Code and corresponding geographic location of the subcontractor's place of performance.
- d. Period covered by Report.

- e. Description of work performed by subcontractor during the report period.
- f. Total compensation paid to subcontractor cumulative to date.
- g. Percentage completion toward Subcontracting Plan goals.

The subcontracting report shall be provided to the Contracting Officer in electronic format.

7.5.6-04 - Approved Subcontractors and Consent to Subcontract - July 2008

The requirements of this clause only apply to subcontractors with subcontract amounts greater than \$100,000. Contractor must not engage subcontractors to perform any of its responsibilities without the prior written approval of the FDIC. Subcontractors identified in Contractor's proposal prior to award are deemed approved. Contractor must notify the FDIC of any changes in subcontracting arrangements. If Contractor proposes to add a subcontractor after award, Contractor must obtain consent from the Contracting Officer. Contractor must send a written request to the Contracting Officer, along with a Subcontracting Plan, or amended Subcontracting Plan, as applicable, which sets forth the following:

- (1) Name, address and DUNS number of the subcontractor;
- (2) Summary of capabilities of the subcontractor;
- (3) Description of roles of Key Personnel of the subcontractor;
- (4) Estimated percentage of work to be performed by the subcontractor;
- (5) Description of work to be performed by the subcontractor;
- (6) Minority or Woman Owned Business (MWOB designation of subcontractor, i.e., Woman-owned, Black, Hispanic, Asian, or Native American);
- (7) SDB certification, if any, of subcontractor; and
- (8) Rationale and the offeror's policy for subcontracting, including a description of how the subcontracting commitments will be met.

In the case of time and material or labor hour contracts, the contractor must provide pricing support for the reasonableness of the proposed labor rates. If markup on the subcontractor rates has been approved by the Contracting Officer, any proposed markup rates must be identified in the pricing support.

Subcontractor must not begin work until the contractor receives written approval by the FDIC Contracting Officer.

The following subcontractors are approved for performance under this contract:

[To Be Determined upon Award]

Consent by the FDIC to any proposed subcontractor must not: (1) constitute a determination of the acceptability of any subcontract terms or conditions; or (2) constitute a determination of the acceptability of any amount paid under any subcontract; or (3) relieve Contractor of any of its responsibilities under the award. Contractor must notify the FDIC Contracting Officer of any changes in subcontracting arrangements.

7.5.8-01 - Liability Insurance - July 2008

Contractor, before commencing work or permitting any subcontractor to commence work, shall procure and maintain the following insurance or, should such insurance be cancelled, the FDIC shall have the right to procure such insurance and the cost thereof shall be deducted from monies then due or which thereafter become due to

Contractor. Contractor may carry any additional insurance as it may deem necessary. Contractor shall not be deemed to be relieved of any responsibility by the fact that Contractor carries insurance. The FDIC shall require any contractor of the FDIC performing work on FDIC premises to carry and maintain, at no expense to the FDIC:

(a) Worker's Compensation and Employer's Liability Insurance in accordance with the applicable laws of the state in which the work is to be performed or of the state in which Contractor is obligated to pay compensation to employees engaged in the performance of the work. The policy limit under the Employer's Liability Insurance section shall not be less than One Hundred Thousand Dollars (\$100,000) for any one accident; and

(b) Comprehensive Bodily Injury and Property Damage Liability Insurance covering the work, the performance of the work and everything incidental thereto, with Bodily Injury (including death) and Property Damage limits of not less than Five Million Dollars (\$5,000,000) per occurrence combined single limit. This policy shall be endorsed to cover: Contractual liability coverage, completed operations coverage, broad form property damage endorsement and Contractor's protective liability coverage; and

(c) Automobile Public Liability and Property Damage Insurance, including coverage on owned, hired, and non-owned automobiles and other vehicles, if used in connection with the performance of the work, with Bodily Injury and Property Damage limits of not less than One Million Dollars (\$1,000,000) per occurrence combined single limit; and

(d) Such other insurance as may be required elsewhere in the Agreement documents.

The FDIC shall be named as Additional Insured under Contractor's Comprehensive Bodily Injury and Property Damage Liability Insurance, and Automobile Public Liability and Property Damage Insurance coverage. Contractor's insurance shall be primary.

7.5.8-02 - Certificates of Insurance - July 2008

Contractor must provide to the Contracting Officer, no later than ten (10) calendar days after the date of execution, a Certificate of Insurance, identifying the required types of insurance and dollar limits. The Certificate of Insurance must include the following FDIC mailing address and reference the contract number:

Federal Deposit Insurance Corporation
 Attention: Sandy Emerson
 1601 Bryan Street
 Dallas, TX 75201
 Reference: Contract No. TBD

Contractor must have its insurance carrier or carriers certify to the FDIC that all insurance required is in force, such certificates to stipulate that the insurance will not be cancelled or substantially changed without thirty (30) days prior notice by Certified Mail to the FDIC Contracting Officer.

Upon request of the Contracting Officer, Contractor must provide the FDIC with a binder or a copy of the original insurance policy.

7.5.8-07 - Fidelity Bond Coverage - July 2008

Contractor must maintain fidelity bond coverage of at least Five Hundred Thousand Dollars (\$500,000.00) at all times during the Period of Performance of the Agreement. Fidelity bond coverage must be with a responsible carrier or bonding company with a financial rating of at least B+ VI from A.M. Best or an equivalent rating agency. The fidelity bond must cover all of Contractor's employees, partners, trustees, brokers, subcontractors, agents, affiliates or other representatives involved in the day-to-day performance of the Agreement, and must protect the FDIC against losses, including, without limitation, those arising from theft, embezzlement, fraud, or misplacement of funds, money, or documents. The FDIC must be named as "loss payee" and as an "additional insured" on Contractor's fidelity bond. Contractor may, in lieu of a fidelity bond, deliver an unconditional, irrevocable letter of credit for the dollar amount required for fidelity bond coverage, issued in the FDIC's favor by a financial institution acceptable to the FDIC. The expiration date of the letter of credit must not be any earlier than sixty (60) days after the expiration date of the contract, as that date may be extended under the Option provision of the Agreement.

Contractor must provide the FDIC with evidence of its fidelity bond coverage, either in the form of a binder or a copy of the fidelity bond, or provide its letter of credit no later than ten (10) days after the date of execution of the Agreement. Contractor agrees to notify the FDIC Contracting Officer in writing within five (5) business days of any notice or proposal of cancellation, termination or modification of fidelity bond coverage that Contractor receives.

7.5.8-09 - Errors and Omissions Insurance - July 2008

Contractor must maintain at all times during the Period of Performance of the Agreement, at its own expense, errors and omissions insurance coverage in the amount of at least One Million Dollars (\$1,000,000.00). Contractor must provide the FDIC, no later than ten (10) calendar days after the date of execution of the Agreement, evidence of errors and omissions coverage. Such evidence may be (1) a binder or (2) a copy of the original policy. Contractor must also provide, no later than ten (10) calendar days after the date of execution, a Certificate of Insurance which must reference the Agreement number and include the FDIC's mailing address, as specified on the award cover sheet.

Contractor must obtain and maintain such coverage with a responsible carrier with at least a financial rating of B+ VI from A.M. Best or equivalent rating agency. Contractor agrees to notify the FDIC Contracting Officer in writing within five (5) business days of the first notice or proposal of cancellation, termination or modification of coverage which Contractor receives.

Contractor may, in lieu of insurance coverage, obtain and deliver to the FDIC an unconditional, irrevocable letter of credit issued in the FDIC's favor by a financial institution acceptable to the FDIC for the dollar amount required for insurance coverage. The letter of credit must have an expiration date no earlier than sixty (60) days after the termination or expiration of the Agreement, as the Agreement may be extended. The issuer, policy terms and forms and amounts of any errors and omissions insurance coverage, including applicable deductibles, must be satisfactory to the FDIC.

7.5.14-01 - Disputes - July 2008

Except as otherwise provided in this award, any factual dispute arising under this award, which is not disposed of by agreement, will be decided by the Contracting Officer. The Contracting Officer must, within 60 days, decide the claim or notify the contractor of the date by which the decision will be made. The Contracting Officer will furnish the contractor with a copy of the written decision.

The decision of the Contracting Officer is final and conclusive unless the contractor submits a written request for appeal of the decision to the Division of Administration, Acquisition Services Branch (ASB), Associate Director, within 60 days from receipt of the Contracting Officer decision. The ASB Associate Director must, within 30 days, decide the claim or notify the contractor of the date by which the decision will be made. The decision of the ASB Associate Director is final and conclusive unless a court of competent jurisdiction finds the decision fraudulent, arbitrary and capricious, so grossly erroneous as to imply bad faith, or not supported by substantial evidence. The contractor has 180 days from the date of the ASB Associate Director's decision to appeal to a court of competent jurisdiction.

Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal, if it requests. Pending final decision of a dispute, Contractor remains obligated to proceed diligently with the performance of the contract, in accordance with the Contracting Officer's decision.

Questions of law may be considered in deciding disputes under the process described above. However, consideration of questions of law by any administrative official, representative or board is not a final decision, and is not to be construed as one.

7.0.1-02 - Clauses Incorporated by Reference - October 2008

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text of a contract clause is available in Module 7 of the document entitled Procedures, Guidance and Information (PGI), which may be accessed electronically at the FDIC website:
www.fdic.gov/buying/goods/acquisition/index.html.

Section J - List of Attachments

The table below lists all of the attachments for Section J which start on the following page

Order of Appearance	Name
Attachments B-1	Pricing Schedule
Attachments C-1	Statement of Work
Attachments H-1	Confidentiality Agreement
Attachments H-2	Confidentiality Agreement
Attachments H-3	IT Security Plan requirement

No attachments were added for this section.

Section K - Representations, Certifications and Other Statements of Offerors

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
7.3.1-03	Restriction on Disclosure of Information	July 2008

Included Clauses

7.3.2-45 - Preamble to Contractor Representations and Certifications - July 2008

The representations and certifications set out in this solicitation must be completed by an official authorized to bind the contractor, and must be returned with its proposal. These representations and certifications concern matters within the jurisdiction of an agency of the United States, and the making of a false, fictitious, or fraudulent certification may render the contractor and certifying official subject to prosecution under 18 United States Code 1001, 1007, and 1014. (For purposes of these certifications, the Federal Deposit Insurance Corporation (FDIC) is considered an agency of the United States only with respect to its rights and remedies under Title 18 of the United States Code). In addition, any misrepresentations or false, fictitious, or fraudulent certifications may render the contractor and the certifying official subject to administrative remedies available to the FDIC, which include suspension and/or exclusion from contracting, or termination of the contract, (12 CFR 366.16; 12 CFR Part 367).

The offeror must provide notice to the Contracting Officer within 10 business days of discovery or at any time prior to contract award, if the contractor learns that one or more of its representations and certifications were erroneous when submitted or have become erroneous by reason of changed circumstances.

The signature of the offeror on the face page of this solicitation constitutes the making of the applicable representations and certifications. The applicable representations and certifications will be incorporated by reference into any contract awarded to the offeror under this solicitation.

PRIVACY ACT STATEMENT

Collection of this information is authorized by the Federal Deposit Insurance Act, 12 U.S.C. 1819, 1821 and Executive Order 9397. This information will be used primarily to examine a contractor's eligibility for potential FDIC contract award; the information provided may be disclosed to licensing authorities by the FDIC in examining the contractor's eligibility. Information may also be disclosed to appropriate Federal, state or local agencies for law enforcement purposes when a violation or possible violation of a civil or criminal law is apparent; to individuals involved in judicial or administrative proceedings; and to a Congressional office in response to an inquiry made at the individual's request. Information may also be disclosed in accordance with the other routine uses set forth in the FDIC's Financial Information System 30-64-0012. Furnishing the requested information is voluntary. However, failure to furnish all requested information may preclude you from receiving an FDIC contract.

7.3.2-46 - Integrity and Fitness Representations and Certifications - July 2008

Answer all questions and fill in the information asked for.

I. IDENTIFYING INFORMATION:**(a) Type of Organization**

The contractor operates as ☐ an individual, ☐ a State or local agency, ☐ a partnership, ☐ a joint venture, ☐ a nonprofit organization, ☐ an educational institution, ☐ a corporation organized and existing under the laws of the state of _____.

(b) Parent Information

The contractor ☐ is, ☐ is not, owned or controlled by a parent company. If it is, complete the blanks below and include an organizational chart of parent company:

NAME OF PARENT COMPANY _____

DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER _____

ADDRESS _____

CITY _____ STATE _____

ZIP CODE _____

(c) Joint Venture Information

The contractor ☐ is, ☐ is not, a joint venture. If contractor is a joint venture, complete the information below.

NAME OF JOINT VENTURE PARTNER _____

JV PARTNER'S DUNS NUMBER _____

JV'S DUNS NUMBER (If different) _____

ADDRESS _____

CITY _____ STATE _____

ZIP CODE _____

Has a Joint Venture Agreement been executed? ☐ Yes, ☐ No (If yes, attach Agreement.)

(d) Subcontractor Information

The contractor [] will, [] will not, use subcontractors in the performance of the contract. If it will, complete the information below.

NAME OF SUBCONTRACTOR _____

TAXPAYER IDENTIFICATION NUMBER (TIN) _____

ADDRESS _____

CITY _____ STATE _____

ZIP CODE _____

NAME OF SUBCONTRACTOR _____

TAXPAYER IDENTIFICATION NUMBER (TIN) _____

ADDRESS _____

CITY _____ STATE _____

ZIP CODE _____

NAME OF SUBCONTRACTOR _____

TAXPAYER IDENTIFICATION NUMBER (TIN) _____

ADDRESS _____

CITY _____ STATE _____

ZIP CODE _____

(If additional space is necessary, attach separate sheets.)

II. PART 366 INTEGRITY AND FITNESS

a) Unique Terms

Unique terms used in these representations and certifications are described in 12 CFR Part 366 as follows:

(1) Conflict of interest occurs when a contractor, any entity that owns or controls a contractor, or any entity the contractor owns or controls:

- (i) Has a personal, business, or financial interest or relationship that relates to the services performed under the contract; or
- (ii) Is a party to litigation against the FDIC, or represents a party that is; or
- (iii) Submits an offer to acquire an asset from FDIC for which services were performed during the past three years, unless the contract allows for the acquisition.

(2) Ownership or control:

- (i) The president or chief executive officer has control of an organization.
- (ii) A partner in a small law firm has ownership or control. A partner in a large multinational law firm may not have ownership or control.
- (iii) A general partner of a limited partnership has control. Ownership or control exists when there is an interest of twenty five percent (25%) or more in a limited partnership.

(iv) Ownership or control is evidenced by the:

1. Power to vote, directly or indirectly, 25% or more interest of any class of voting stock of a company;
2. Ability to direct in any manner the election of a majority of a company's directors or trustees; or
3. Ability to exercise a controlling influence over the company's management and policies.

(3) Default on a material obligation occurs when a loan or advance with an outstanding balance of more than \$50,000 is or was delinquent for ninety (90) days or more.

(4) FDIC-insured depository institution includes any bank or savings association the deposits of which are insured by the FDIC.

(5) Management official includes any shareholder, employee, or partner who controls a company and any individual who directs the day-to-day operations of a company. With respect to a partnership whose management committee or executive committee has responsibility for the day-to-day operations of the partnership, management official includes a member of such a committee but, if no such committee exists, management official includes each of the general partners.

(6) Pattern or practice of defalcation regarding obligations:

A pattern or practice of defalcation under 12 CFR section 366.3(c) exists when the contractor, any person that owns or controls the contractor, or any entity the contractor owns or controls has a legal responsibility for the payment on at least two obligations that are:

- (i) To one or more FDIC-insured depository institutions;

(ii) More than ninety (90) days delinquent in the payment of principal, interest, or a combination thereof; and

(iii) More than \$50,000 each.

(7) Person includes an individual, corporation, partnership or other entity with a legally independent existence.

(8) Substantial loss to Federal deposit insurance fund:

A substantial loss to a Federal deposit insurance fund under 12 CFR section 366.3(d) exists when the contractor, or any person that owns or controls the contractor, or any entity the contractor owns or controls has:

(i) An obligation to us that is delinquent for ninety (90) days or more and on which there is an outstanding balance of principal, interest, or a combination thereof of more than \$50,000;

(ii) An unpaid final judgment in our favor that is in excess of \$50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding;

(iii) A deficiency balance following foreclosure of collateral on an obligation owed to us that is in excess of \$50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding; or

(iv) A loss to us that is in excess of \$50,000 that we report on IRS Form 1099-C, Information Reporting for Discharge of Indebtedness.

(b) Representations as to Eligibility (12 CFR 366.3)

To the best of the contractor's knowledge:

(1) Has the contractor been convicted of a felony?

☐ Yes ☐ No (If yes, explain below.)

(2) Has the contractor been removed from or prohibited from participating in the affairs of an FDIC-insured depository institution because of a Federal banking agency action?

☐ Yes ☐ No (If yes, explain below.)

(3) Has the contractor demonstrated a pattern or practice of defalcation regarding obligations?

☐ Yes ☐ No (If yes, explain below.)

(4) Is the contractor responsible for a substantial loss to a Federal deposit insurance fund?

☐ Yes ☐ No (if yes, explain below.)

As used herein, "pattern or practice of defalcation" is described in 12 CFR 366.4 and "a substantial loss to a Federal deposit insurance fund" is described in 12 CFR 366.5 both are reproduced in Part II(a) of these representations and certifications for your convenience.

(c) Representations as to Conflicts of Interest (12 CFR 366.9)

Answers to the following four (4) questions regarding conflicts of interest are provided for the contractor, its officers, directors, any management officials, any persons that own or control you or you own or control; and any employees, agents, or subcontractors who will perform services under the contract:

(1) Do any such person(s) have a personal, business, or financial interest or relationship that relates to the services you perform under the contract?

☐ Yes ☐ No (if yes, explain below.)

(2) Are any such person(s) a party to litigation against us, or represent a party that is?

☐ Yes ☐ No (if yes, explain below.)

(3) Are any such person(s) submitting an offer to acquire an asset from us for which services were performed during the past three years, unless the contract allows for the acquisition?

☐ Yes ☐ No (if yes, explain below.)

(4) Does the contractor recognize that it generally may not later purchase assets it will manage under this contract and performance of this contract may disqualify the contractor from follow-up work where information obtained in the performance of the contract gives the contractor an unfair competitive advantage?

☐ Yes ☐ No (if no, explain below.)

If the contractor cannot certify that there are no conflicts of interest, it may describe the circumstances of any conflicts and request a waiver in accordance with CFR 366.10 or propose a method for the elimination of the conflict.

(d) Representations as to Defaults (CFR 366.13(b))

Has the contractor or any company under the contractor's control defaulted on a material obligation during the five (5) years proceeding the submission of this offer?

☐ Yes ☐ No (If yes, attach a description of all such instances.)

A "default on a material obligation" occurs when a loan or advance with an outstanding balance of more than \$50,000 is or was delinquent for ninety (90) days or more.

(e) Representations as to Employees and Subcontractors (CFR 366.13(d))

Does the contractor agree that without a waiver, it will employ only persons who meet the requirements of 12 CFR Part 366 to perform services on behalf of FDIC?

☐ Yes ☐ No (If no, explain below.)

7.3.2.47 - Additional Information - Representations, Certifications and Other Statements of the Offeror - July 2008

The offeror must complete the Section K, Representations, Certifications and Other Statements of the Offeror, and submit them with its proposal in a section entitled "Additional Information". Do not retype the Representations and Certifications; simply complete and return the signed original and one copy. Should there be any material change that affects the accuracy of the information in the Representations and Certifications after they have been submitted, the offeror must file new Representations and Certifications with the FDIC.

The offeror (prime contractor) is responsible for:

- Obtaining the Section K clause 7.3.2-46 Integrity and Fitness Representations and Certifications from its subcontractors with subcontracts valued at \$100,000 or more;
- Reviewing them for accuracy and completeness;
- Ensuring no subcontracts are issued to third parties who do not meet the requirements addressed in the representations and certifications;
- Referring any conflicts revealed by the certifications or that arise during the course of performing work to the Contracting Officer;
- Maintaining the representations and certifications; and
- Making the representations and certifications available to the Contracting Officer, upon request.

7.3.2-48 - Minority and Women-Owned Business Representations - March 2009

(a) The offeror ☐ is, ☐ is not, a minority-owned business concern. A minority-owned business concern is defined as a firm in which at least 51% of the ownership and control is directly and unconditionally held by one or more minorities. A firm which is principally owned by another business entity or a trust (including employee stock

ownership trusts) that is in turn owned and controlled by one or more minorities does not meet this definition. In the case of a firm which is a corporation, at least 51% of each class of voting stock outstanding, and 51% of the aggregate of all stock outstanding, must be unconditionally owned by one or more minorities. Additionally, the firm(s) management and daily business operations must be conducted by one or more of the qualifying minority owner(s). The minority individuals must have managerial experience of the extent and complexity needed to run the firm. A minority owner's unexercised right to cause a change in the control of management of the firm does not constitute minority control and management, regardless of how quickly or easily the right could be exercised.

(b) If a minority-owned business:

(1) Check the appropriate box below indicating ethnicity.

☐ Hispanic or Latino ☐ Not Hispanic or Latino

(2) Check the appropriate box below indicating racial category.

☐ American Indian/Alaska Native ☐ Black or African American

☐ Asian ☐ Native Hawaiian or Other Pacific Islander

(c) The offeror ☐ is, ☐ is not, a women-owned business. A women-owned business is defined as a firm in which at least 51% of the ownership and control is directly or unconditionally held by one or more women. A firm which is principally owned by another business entity or by a trust (including employee stock ownership trusts) that is in turn owned and controlled by one or more women does not meet this definition. In the case of a firm which is a corporation, at least 51% of each class of voting stock outstanding, and 51% of the aggregate of all stock outstanding, must be unconditionally owned by one or more women. Additionally, the firm(s) management and daily business operations must be conducted by one or more women. The women must have managerial experience of the extent and complexity needed to run the firm. A women owner's unexercised right to cause a change in control or management of the firm does not constitute minority control and management, regardless of how quickly or easily the right could be exercised.

(d) If offeror is a minority or women-owned business, where did it hear about FDIC contracting opportunities?

☐ Convention/Procurement Fair ☐ Minority and/or Women's Organization

☐ Personal Contact ☐ Current Solicitation

☐ Other (explain)_____

7.3.2-49 - Small Disadvantaged Business Concern Certification - July 2008

The offeror ☐ is, ☐ is not, a small disadvantaged business concern that has been certified as a small disadvantaged business concern by the Small Business Administration, or ☐ it has filed an application with the Small Business Administration to be certified as a small disadvantaged business concern. A small disadvantaged business concern that has applied for but not yet received Small Business Administration certification may be entitled to treatment as a small disadvantaged business concern where certification can be obtained before the contract is awarded.

7.3.2-50 - Certificate of Independent Price Determination - July 2008

(a) The offer certifies that:

(1) The prices in this proposal have been arrived at independently, without, for the purposes of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this proposal have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before contract award unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit a proposal for the purpose of restricting competition.

(b) Each signature on the proposal is considered to be a certification by the signatory that the signatory:

(1) Is the person in the offeror's organization responsible within that organization for determining the prices being offered in this proposal, and that the signatory has not participated and will not participate in any action contrary to (a)(1) through (a)(3) above, or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ (insert full name of person(s) in the offeror's organization responsible or determining the prices offered in this proposal, and the title of his or her position in the offeror's organization);

(ii) As an authorized agent, certifies that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above. (c) A proposal will not be considered for award where (a)(1), (a)(3) or (b) above has been deleted or modified. If the offeror deleted or modifies (a)(2) above, the offeror must furnish with its proposal a signed statement setting forth in detail the circumstances of the disclosure.

7.3.2-51 - Contingent Fee Representation - July 2008

The offeror represents that except for full-time bona fide employees working solely for the offeror, the offeror (a) ☐ has, ☐ has not, employed or retained any person or company to solicit or obtain this contract; and (b) ☐ has, ☐ has not, paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract. The offeror agrees to provide information relating to this Representation as requested by the Contracting Officer when either (a) or (b) herein is answered affirmatively. As used herein, "bona fide employee" means a person, employed by an offeror or contractor and subject to the offeror's or the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain FDIC contracts, nor holds out as being able to obtain any FDIC contract or contracts through improper influence.

7.3.2-52 - Equal Opportunity Certification - July 2008

The offeror represents that --

(a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It ☐ has, ☐ has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

The offeror also represents that --

(d) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(e) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

7.3.2-55 - Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions - March 2009

(a) The offeror certifies that, to the best of its knowledge and belief, the following statements are true:

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

☐ Yes ☐ No

(2) No non-appropriated funds (including profit or fee received under a covered Federal Transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the solicitation associated with this certification.

☐ Yes ☐ No

If the offeror has checked the "No" box in (a)(2) above, indicating that any funds other than Federal appropriated funds (including profit or fee received under a covered Federal Transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, "Disclosure of

Lobbying Activities" (available upon request) to the Contracting Officer.

(b) The offeror certifies that it will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure, and when required, a completed OMB Standard Form LLL is a prerequisite for making or entering into this contract imposed by 31 U.S.C. § 1352. Any person who makes an expenditure prohibited under the contract provision entitled "Limitation on Payments to Influence Certain Federal Transactions", or who fails to file or amend the discloser form to be filed or amended with this certification, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each failure.

Section L - Instructions, Conditions, and Notices to Offerors

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
7.3.1-01	Disposition of Submitted Material	July 2008
7.3.1-02	Central Contractor Registration	July 2008
7.3.1-04	Solicitation Requirements, Terms and Conditions	July 2008
7.3.1-07	Proprietary Information	July 2008
7.3.1-08	Amendments, Extensions, and Cancellations	July 2008
7.3.2-02	References to Time	July 2008
7.3.2-03	Outreach Program: SDB, Minority-Owned and Women-Owned Business Concerns	July 2008
7.3.2-07	Submission of Offers in the English Language and in U.S. Currency	July 2008
7.3.2-08	Award of Contract - Competitive	July 2008
7.3.2-14	Non-Responsive Proposals	July 2008
7.3.2-28	Late Proposals, Modifications of Proposals, and Withdrawals of Proposals	July 2008
7.3.2-30	Rejecting Proposals/Waiving Informalities	July 2008
7.3.2-31	Pre-Award Site Visit	July 2008

Included Clauses

7.3.1-06 - Identification and Delivery of Proposals - March 2009

The proposal due date for Phase One-Written Information under this RFP is June 17, 2009 by 2:00 PM., local time of the FDIC office issuing this solicitation. Proposals received after that date and time may be returned without any review by the FDIC.

Proposals and amendments to proposals must be: (1) marked with the solicitation number and the name and address of the offeror, (2) submitted in both paper media within a sealed envelope or package and electronic media in the form of a CD, and (3) delivered to the office specified below. An offeror who uses a commercial carrier to deliver its proposal must ensure the outermost wrapper of its package contains the information specified in (1) and

(3) above. Proposals may be delivered by regular mail, express delivery mail, or hand-delivered by the offeror or private courier. When hand-delivering a proposal, offeror should allow at least an additional hour for delivery in advance of the time specified above.

Federal Deposit Insurance Corporation

1601 Bryan Street, Dallas, TX 75201

Attention: Acquisition Services

Sandy Emerson

7.3.2-01 - Description of Goods or Services - July 2008

The FDIC is requesting proposals from offerors to perform the following activities: To conduct pre-closing and closing ORE responsibilities, and manage and dispose of ORE assets acquired from failed financial institutions. The services the FDIC requires are described in the Statement of Work ("SOW") included in this solicitation. The term "proposal" as may be used in this document refers to the written offer, written information, and pricing information. Each of the elements is further described in Section L, Instructions, Conditions, and Notices to Offerors, of this solicitation.

7.3.2-06 - Questions Regarding Solicitation - July 2008

The FDIC will respond to questions or requests for clarification, submitted in writing by an offeror, regarding this solicitation. Questions or requests for clarification must be submitted by 2:00 p.m. on May 29, 2009 by email to Sandy Emerson at saemerson@fdic.gov or by facsimile at Fax No. 703-465-4386. If an offeror is unable to use either email or fax, it should contact Sandy Emerson at 972-761-2596.

Questions and their answers to this solicitation will be posted in the form of an Amendment on the Federal Business Opportunities (FedBizOpps) Internet website (<http://www.fedbizopps.gov>).

7.3.2-10 - General Proposal Instructions - Oral Presentation - July 2008

(a) This solicitation does not commit the FDIC to award any contract, to pay any cost incurred related to proposal submission, oral presentation, or any subsequent negotiations. It is also the offeror's responsibility to inform the FDIC of any present, pending or possible future conflict of interest.

(b) Because the FDIC expects to receive and analyze a large volume of data in selection of the successful offeror, proposals shall be made strictly in accordance with the proposal format set forth herein. Failure to comply with the terms and conditions of this solicitation may result in the offeror being removed from consideration for award.

(c) Each proposal shall be submitted as follows:

Phase One- Written Information: The Written Information will be evaluated to determine which Offerors provide the highest level of capability considering criteria set forth herein. The due date for the Written Information shall be in accordance with 7.3.1-06.

Volume 1 - Mission Capability (7.3.2-15)

Subfactor 1: Significant engagements/past performance

Subfactor 2: Technical Approach/Key Personnel

Subfactor 3: Database/reporting

Volume 2 - Additional Information: Exceptions (g) and Representations and Certifications (Section K)

Phase Two: Oral Presentations:

Those Offerors that are determined to provide the highest level of capability shall be required to provide an Oral Presentation, which shall be further evaluated against criteria specified herein. Those Offerors will be notified when the Phase Two Oral Presentation volumes are due. All Offerors submissions will be due at the same time with the exception of the oral presentation. Oral Presentations will be scheduled in accordance with 7.3.2-17.

Volume 1 - Oral Presentation slide set (7.3.2-27)

Volume 2 - Price Proposals (7.3.2-12)

Volume 3 - Past Performance (7.3.2-16)

Volume 4 - Background Investigation Questionnaires (7.5.2-01)

The numbers of printed copies to be submitted for each volume are specified in other provisions of this solicitation. In addition to printed copies, offeror must submit the proposal electronically on compact disk (CD). Each proposal volume must be contained in a separate folder or file on the CD(s).

(d) Each volume shall have a cover page, that identifies (1) the offeror's name, address and telephone and fax numbers and the name of its contact person regarding the solicitation; (2) the solicitation Number; and (3) the volume number and name.

(e) The oral presentation requirements, including the deliverables and the topics to be presented, are identified in the provision "Oral Presentation".

(f) If the proposal exceeds the page limits identified in the solicitation, the proposal may be determined non-responsive and returned to the offeror. The following will not be included in the page count limitations: cover pages, table of contents, tabs, dividers, glossaries, blank pages and a compliance matrix (if proposed).

(g) Exceptions taken to the terms and conditions of the solicitation, including the attachments, must be identified and fully described in the "Additional Information" volume of your proposal. Each exception must be identified specifically, by reference to the paragraph or part of the solicitation to which exception is taken. Provide rationale in support of the exception and fully explain the impact it has, if any, on performance, schedule, and price. Failure to comply with the terms and conditions of the solicitation may result in the offeror being removed from consideration for award.

7.3.2-12 - Pricing Proposal (Time and Material or Labor Hour) - July 2008

If requested to provide Oral Presentations, Offerors shall submit an original and three (3) copies of the Pricing Proposal in accordance with the Pricing Schedule, an attachment in Section B to this solicitation. Instructions for completing the Pricing Schedule are provided in the attachment in Section B.

(a) Offeror must identify the markup the prime contractor has applied to each subcontractor labor category. Offeror must justify the reasonableness of the subcontractor markup rate(s).

(b) For the purpose of proposing on-site and off-site labor rates, the following definitions apply:

(1) On-site - a contractor is working on-site if the major portion of the work activity, measured in labor hours, is

performed at or in a facility controlled by FDIC. For these purposes, "controlled" includes facilities owned, leased, rented or occupied by the FDIC, for the purpose of doing business in its corporate, conservatorship, or receivership capacities. For the portion of the work that the Contractor performs at or in a facility controlled by FDIC, FDIC will allow Contractor to utilize standard and existing FDIC equipment and material, including but not limited to computer hardware and software.

(2) Off-site - a contractor is working off-site if the major portion of the work activity, measured in labor hours, is performed at a facility other than one controlled by the FDIC (as defined above), in which the Contractor furnishes any and all materials needed to perform the work, including ,but not limited to, computer hardware and software. FDIC may decide to supply contractor with software to be used in which case no cost or fee will be charged to the contractor. No other fees, costs, or expenses must be paid to a contractor working off-site other than the labor hour rate, unless specifically set forth in this contract.

(c) Travel costs will be reimbursed in accordance with the FDIC Contractor Travel Reimbursement Guidelines found at <http://www.fdic.gov/buying/goods/acquisition/index.html>. If the Contractor must be in the Washington, D.C., area overnight, the Contractor is required to stay at the Seidman Center providing space is available. If space is not available the Contracting Officer will authorize the contractor to obtain alternate lodging. For reimbursement, the Contractor must submit written evidence regarding the unavailability of lodging at the Seidman Center with their invoice.

(d) Sales Tax Exemption. FDIC is a Federal Government corporation and is exempt from State sales tax. Therefore, it is not required to pay sales tax on invoices submitted to it and if included, the amounts will be deducted from the total amount invoiced.

(e) References/Financials. Offerors must provide a bank reference together with a certified Balance Sheet and Income Statement prepared by an independent auditor, or an acceptable equivalent, for the current and preceding two (2) fiscal years. If the offeror cannot provide these statements, explain why, and provide other suitable proof of the offeror's financial responsibility.

7.3.2-13 - Effective Period of Offer - July 2008

The proposal shall be signed by an authorized officer of the company who can commit the offeror, and shall include a statement that the offer is valid for a period of not less than 120 days, unless withdrawn by written notice to the Contracting Officer.

7.3.2-15 - Mission Capability - Proposal Instructions - July 2008

(a) The Mission Capability Volume (Phase One) must include the information described below. Do not include any pricing information in this volume. Offerors must submit an original and three (3) copies of the Mission Capability Volume.

The Mission Capability Volume should be specific and complete. Legibility, clarity and coherence are very important. Your responses will be evaluated against the Mission Capability rating criteria defined in the provision of this solicitation Evaluation of Mission Capability. Using the instructions provided below, provide as specifically as possible the actual methodology you would use for accomplishing/satisfying these subfactors. Do not merely reiterate the objective or reformulate the requirements specified in the solicitation.

The proposal must address the following:

Subfactor 1. Similar significant engagements/past performance (up to 30 page maximum) : This subfactor could include contractor and subcontractor experience with specific examples. Significant engagements should demonstrate ability to handle large portfolios of various property types, as well as marketing ability and speed of disposition.

Subfactor 2. Technical Approach/Key Personnel (up to 50 page maximum) - Approach should demonstrate an understanding of the requirement, as well as identification of, qualifications, and experience of Key Personnel of Contractor and any subcontractors . If subcontracting, provide the following:

Subcontracting Plan. The offeror must provide a subcontracting plan for any portion of the work proposed to be subcontracted. Offerors are encouraged to subcontract with Minority or Woman Owned Business (MWOBs) and Small Disadvantaged Business (SDBs).

The subcontracting plan must provide at least the following;

- (1) Name, address and Dun and Bradstreet Number (DUNS) of the subcontractor;
- (2) Summary of capabilities of the subcontractor;
- (3) Description of roles of Key Personnel of the subcontractor;
- (4) Estimated percentage of work to be performed by the subcontractor;
- (5) Description of work to be performed by the subcontractor;
- (6) Minority or Woman Owned Business (MWOB designation of subcontractor, i.e., Woman-owned, Black, Hispanic, Asian, or Native American);
- (7) SDB certification, if any, of subcontractor; and
- (8) Provide your rationale and a policy for subcontracting on this contract, including how you will meet your proposed subcontracting commitments.

(Note: Do NOT include any labor rates in the Subcontracting Plan. Estimated compensation to the subcontractor, including detailed information concerning labor categories and labor rates, must be included in the Pricing Volume.)

Subfactor 3. Database development/reporting (up to 20 page maximum) - Reporting capability should be demonstrated along with description of database functionality. Describe software utilized, compatibility with other applications, and how data will be managed and reported.

(b) If the offeror proposes to hire any incumbent key personnel, the offeror must include a copy of the incumbent personnel's resume and a letter of commitment from the individual. Do not include any pricing information (e.g., proposed salary, etc.) in the letter of commitment.

7.3.2-16 - Past Performance - Proposal Instructions - July 2008

If included in Phase Two, Oral Presentations, Offerors must submit an original and three (3) copies of the Past Performance Volume. Do not include any pricing information in this volume.

(a) General

Each offeror must submit a Past Performance Volume with its proposal, containing past performance information in the format described in paragraph (d) below, Past Performance Information. This information is required for both

the offeror and for major subcontractors and joint venture partners that the offeror considers critical to its overall successful performance of this requirement. The FDIC will use data provided by each offeror, as well as data obtained from other sources, in the evaluation of past performance.

Offeror must notify its proposed subcontractors that by providing past performance information and references to the offeror for inclusion in the proposal, a subcontractor is deemed to have given consent to the possible release by FDIC to offeror of any adverse past performance information the FDIC receives, in order that the offeror can respond to it.

(b) Relevant Contracts (Maximum (3) three pages for each relevant contract).

Submit past performance information, in the format described in paragraph (d), on five (5) recent contracts you consider the most relevant in demonstrating your ability to perform this requirement. Also include past performance information on up to three (3) recent contracts performed by each of your subcontractors and joint venture partners, if any, which you consider the most relevant in demonstrating their ability to perform this requirement. For a description of the characteristics or aspects the FDIC will consider in determining relevance, see Section M, Evaluation Factors for Award.

(c) Specific Content

Explain the rationale supporting the relevance to this requirement of the particular contracts you selected as indicators of past performance, e.g., what particular aspects of these contracts relate to the particulars of this requirement, in what way do they relate, and to what degree. Your discussion may include your accomplishments in resolving problems encountered on these prior contracts and in identifying and managing program risk. Clearly describe management actions you took to overcome problems and the effect those actions had in achieving improvements or rectifying problems. Merely having problems does not automatically equate to a little or no confidence rating, since the problems encountered may have been on a more complex program, or an offeror may have subsequently demonstrated the ability to overcome the problems encountered. This may allow the offeror to be considered a higher confidence candidate.

(d) Past Performance Information

Provide the information listed below for each contract (Government or commercial) being described (see paragraph (b)). Provide frank, concise comments regarding your performance on the contracts you identify. Provide a separate completed form for each contract.

- (1) Name of the customer.
- (2) Contract/work identification number.
- (3) Contract type.
- (4) Total contract value.
- (5) Brief description of the work performed.
- (6) Period of performance.
- (7) Point of contact for the contract (technical/project manager's and contracting official's names and telephone numbers).
- (8) For each of the sub-factors under the Mission Capability factor, illustrate how the work you performed applies to that sub-factor.

(9) Specify, by name, any key personnel, who you propose for the contract resulting from this solicitation, who participated in this contract, and indicate their contractual roles for both contracts.

(10) Identify whether a subcontracting plan was required by the contract. If one was required, identify, in percentage terms, the planned versus achieved goals during contract performance for Small Businesses, Small Disadvantaged Businesses (SDB), and Minority or Women Owned Businesses (MWOB). If goals were not met, please explain.

(e) Performance Questionnaires

Offeror must ask each customer identified by the offeror in paragraph (d) to complete a Past Performance Questionnaire (PPQ) (form is available at www.fdic.gov/buying/goods/acquisition/index.html). The offeror is responsible for providing customers with the questionnaire, along with ensuring the questionnaire identifies the solicitation number and the name, fax number, and email address of the Contracting Officer. By selecting the customer as a reference and requesting they submit the questionnaire to FDIC, the offeror is authorizing the customer to release past performance information to the FDIC, whether it is positive or negative information. Responsibility for tracking the completion of the PPQs rests solely with the offeror. The completed PPQs must be sent directly to the FDIC from the customer and should be preferably emailed to saemerson@fdic.gov or faxed to the Contracting Officer, Sandy Emerson at 703-465-4386. Any PPQs received from the offeror will not be considered. The offeror is responsible for ensuring the PPQs are received by FDIC no later than the proposal due date. Offeror should contact the Contracting Officer to confirm receipt. In the event no PPQs are received by the FDIC Contracting Office, the Contracting Officer may contact the points of contact provided by the offeror.

7.3.2-27 - Oral Presentation - July 2008

(a) After the submission of proposals, eligible offerors must make an oral presentation of the technical aspects of their proposals to the FDIC Technical Evaluation Panel and Contracting Officer, and participate in a question and answer session. Offerors must expect probing questions as to their understanding of the requirement and capabilities. Oral presentations will be evaluated as described in Section M. THE PRESENTATION OF INFORMATION ABOUT PRICING IS NOT PERMITTED DURING EITHER THE ORAL PRESENTATION OR THE QUESTION AND ANSWER SESSION.

(b) Upon notification by the Contracting Officer, the offeror must submit an electronic file (on CD) of the oral presentation slides and three (3) paper copy sets of the presentation. Offeror must use PowerPoint (.ppt) or a similar program to provide visual support for its presentation. There is no limit on the number of slides that an offeror may use. However, when reviewing and evaluating the oral presentations, FDIC will not evaluate any slide that was not projected and fully addressed during the presentation. The production and use of an excessive number of or overly elaborate slides may be considered in the evaluation process.

(c) FDIC will not accept any change to the oral presentation briefing slides after the due date for proposal submission. However, while making the oral presentation, the offeror may expand on the information contained in the briefing slides. The FDIC will not discuss an offeror's strengths or weaknesses and will not conduct negotiations during the oral presentation. Statements made by the offeror during the oral presentation will not become a part of any contract resulting from this solicitation unless the FDIC and offeror agree to make it a part of the contract.

(d) The following topics must be covered in the oral presentation:

- (1) Understanding of the requirement and experience for managing and marketing all types of ORE properties, including but not limited to residential, land, commercial, and non-residential. Discussion should demonstrate experience and expertise in handling diverse portfolios and ability to liquidate properties with maximum value.
 - (2) Management Plan, including but not limited to methodology, staffing, organizational chart, scheduling, roles and responsibilities, and subcontractors, if any. Offerors should identify Key Personnel from contractor/subcontractor team and discuss management of all aspects of this engagement.
 - (3) Administration of the Agreement and the project, including quality control and quality assurance.
 - (4) Reporting capability and database management, including a brief demonstration of current or proposed functionality.
- (e) The presentation must be given by key personnel or senior members of the team being proposed to manage the contract. The majority of the presentation must be given by the individual who will personally direct and supervise performance and will have complete operational responsibility. However, the offeror may have other personnel conduct parts of the presentation related to their area of expertise. The number of presenters must be held to a minimum and all must be individuals who will perform under the contract.
- (f) The oral presentation, excluding the question and answer period, will be limited to sixty (60) minutes. Following the oral presentation, there will be a short recess to be followed by up to an hour question and answer session. During the question and answer session, FDIC may request clarification or elaboration of any points addressed in the oral presentation for the purpose of clarifying areas of the offeror's response which are unclear or not adequately supported or understood. The offeror is not entitled to ask FDIC questions during the oral presentation or question and answer period.
- (g) Oral presentations are expected to occur approximately two-three weeks after the closing date of this solicitation. The order in which oral presentations will be made will be randomly determined by the Contracting Officer. The Offeror will receive an advance notice, at least five (5) calendar days prior to the oral presentation date, identifying the offeror's scheduled date, time and location for the oral presentation. The offeror must confirm the receipt of the notification for the oral presentation to the Contracting Officer and must include a list of names and titles for all presenters and attendees. The offeror's point of contact for the presentation, including telephone number, must also be included in the confirmation. FDIC may not be able to accommodate a schedule change requested by an offeror for its oral presentation and may proceed with the source selection process without hearing the offeror's oral presentation. It is within the Contracting Officer's discretion to reschedule any offeror's presentation.
- (h) At the start of the oral presentation, the Contracting Officer will provide the offeror with the oral presentation CD that was submitted with the proposal, which the offeror must use for the presentation. The offeror will have access to an overhead projector and a podium. The offeror may not use any other media, such as a chalk board, white board, or flip-chart.
- (i) Offeror may not record its presentation using audio or videotape or any other method/medium. FDIC reserves the right to videotape or otherwise record the presentation, including question and answer session. Copies of videotaped presentations or other recordings will not be made available to individual offerors.

(j) The actual facilities that will be used for the oral presentation, or facilities similar to them, will be made available to offerors for a 20-minute inspection, at a date to be determined by the Contracting Officer. An offeror must make a written request to the Contracting Officer to view the facilities, if it desires to inspect them prior to the oral presentation.

7.5.2-01 - Background Investigation Questionnaires - July 2008

Background Investigation Questionnaires.

Pre-Award

Offeror shall submit the following document, signed by an authorized representative:

- Background Investigation Questionnaire for Contractors (FDIC 1600/7).

In addition, offeror shall submit these documents, completed and signed by all Key Personnel:

- Background Investigation Questionnaire for Contract Personnel and Subcontractors (FDIC 1600/4); and
- Notice and Authorization Pertaining to Consumer Reports (FDIC 1600/10).

All three of the above documents are available at the FDIC website:

www.fdic.gov/buying/goods/acquisition/index.html

The offeror shall submit these documents in the volume of its proposal entitled "Background Investigation Questionnaires". The information submitted on these forms must be accurate and complete so as not to delay the investigation and evaluation process.

Post-Award

The successful offeror must comply with additional background investigation requirements, as set forth in clause 7.5.2-3, Background Investigations.

7.0.1-01 - Solicitation Provision Incorporated by Reference - October 2008

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. The full text of a solicitation provision is available in Module 7 of the document entitled Procedures, Guidance and Information (PGI), which may be accessed electronically at the FDIC website: www.fdic.gov/buying/goods/acquisition/index.html.

7.1.3-1 - Post-Government Employment Certification (Pre-Award) - July 2008

Any former FDIC employee who the offeror proposes to use in performance of work under the contract or its subcontracts must complete the post-government employment certification found at FDIC website www.fdic.gov/buying/goods/acquisition/index.html. The offeror shall submit the certification(s) in the volume of its proposal entitled "Additional Information". The certification(s) of the successful offeror will be reviewed by the FDIC

Legal Division Ethics Unit to determine compliance with post-government employment restrictions. The former employee may be required to provide additional information as to their position and responsibilities while employed at FDIC and as a post-government employee working on the FDIC contract or subcontract.

Section M - Evaluation Factors for Award

No attachments were added for this section.

Clauses Incorporated By Reference

Clause #	Title	Date
No reference clauses were found for this section.		

Included Clauses

7.3.2-17 - Best Value Evaluation Process - July 2008

(a) The FDIC will review all proposals for responsiveness and all Offerors (including subcontractors) for compliance with 12 CFR 366, and will evaluate individual proposals against the evaluation criteria. The FDIC may exclude an offeror from further consideration if it submits an Offer that does not conform to the proposal submission requirements.

(b) Phase One - Mission Capability: Subfactors 1 and 2 are of equal importance and more important than Subfactor 3.

(c) Phase Two - Oral Presentation:

Factors A and B are of equal importance, and are more important than Factor C. Sub-factors A-1, A-2, and A-3 are all equal in importance, and more important than Sub-factor 4.

Factor A - Oral Presentation

SubFactor A-1: Similar engagements

SubFactor A-2: Technical Approach/Key Personnel

SubFactor A-3: Database/reporting

Factor B - Past Performance

Factor C - Price

Following an evaluation, award will be made to the offeror(s) whose proposal is determined to be most advantageous (best value) to the FDIC.

(d) Subjective judgment is implicit in the analysis of best value. The best value may not necessarily be represented by the lowest price offered. Price is not expected to be the most significant factor in the selection of a Contractor from this solicitation. The degree of importance of price as a factor, however, could increase depending upon how equally matched the competing proposals are for the other factors evaluated. When competing proposals are judged to be equal upon evaluation of the other factors considered in the best value analysis, total price and other price factors would become the most significant factor.

7.3.2-18 - Evaluation of Mission Capability - July 2008

(a) Review and Assessment of Mission Capability Written Proposals. FDIC will review and assess the Mission Capability of each written proposal against the stated evaluation sub-factors set forth above. Mission Capability ratings will focus on strengths and weaknesses of the offeror's proposal and assess the extent to which offeror's proposed technical and management solutions fulfill the functional requirements and meet FDIC's needs. A total of 100 points will be assigned to the Mission Capability factor (Written Information). Points assigned at the subfactor level will be driven by the order of importance for each subfactor. All points assigned at the subfactor level will equal 100 points at the factor level. Cumulative points will reflect the quality of the offeror's proposal for Mission Capability according to the stratification table below.

A total of 100 points will be assigned to the Oral Presentation factor. Points assigned at the subfactor level will be driven by the order of importance for each subfactor. All points assigned at the subfactor level will equal 100 points at the factor level. Cumulative points will reflect the quality of the offeror's proposal for the Oral Presentation according to the stratification table below.

RATING SCALE

Phase One -Written Information

The evaluation of the written information provided in the proposals shall be the first step in the technical evaluation process. The written information will be evaluated to determine which offeror provides the highest level of capability considering the following. The written information shall be evaluated against the criteria listed below. Note: Offerors that fail to make this technical cut shall not progress further in the evaluation process.

Criterion	Points
A. Similar significant engagements: Does the offeror demonstrate satisfactory past performance under prior contracts for similar ORE management and marketing project services?	40
B. Technical approach/Key Personnel: Does the offeror propose a qualified and appropriately organized contract team, including subcontractors, if any, and do Key Personnel have relevant ORE management and marketing experience and qualifications?	40
C. Database development/reporting: Does the offeror have software and database development expertise to provide ORE marketing, management, inventory and expense tracking, and sales data? Does Offeror demonstrate a robust reporting capability in line with SOW requirements?	20

Phase Two - Oral Presentation

Based upon the technical evaluation of the written information conducted pursuant to phase one, the offerors that are determined to provide the highest level of capacity shall then be required to provide an Oral Presentation. The presentation shall be evaluated against the criteria listed below:

Criterion	Points
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A. Does the offeror evidence an understanding of and have the experience to perform the technical requirements of this Statement of Work for all types of Owned Real Estate property types including residential, land, commercial and non-residential? 30

B. Does the offeror propose a satisfactory management plan for the performance and staffing of the specific tasks, the methodology to be used to perform and complete the tasks, and appropriate time schedules for the performance of the tasks? 30

C. Does the offeror demonstrate adequate procedures and methods for the administration, control and quality assurance of project services? 30

D. Does the offeror have systems and adequate controls in place to manage ORE inventories nationwide, provide all required and adhoc reporting, and accounting of expenses, marketing and sales? 10

Adjectival Rating/Point Range: Rating Description/Standard

Excellent/90-100: Meets or exceeds all requirements. Proposal demonstrates complete understanding of the requirement and offers a substantial chance of success. No deficiencies or weaknesses identified.

Very Good/80-89: Meets or exceeds some requirements. Proposal shows reasonable understanding of the requirement and offers a high chance of success. No deficiencies or weaknesses identified.

Good/70-79: Meets minimum requirements. Proposal shows reasonable understanding of the requirement and offers a high chance of success. Significant weaknesses or deficiencies exist, but are correctable through clarification or discussions.

Marginal/60-69: Meets some minimum requirements. Proposal indicates only a marginal understanding of the requirement and offers only a minimal chance for success. Significant deficiencies and weaknesses must be corrected in order to make the proposal acceptable, but any proposal inadequacies are correctable.

Poor/0-59: Does not meet requirements. Proposal demonstrates a significant lack of understanding of the requirement and does not offer a reasonable chance for success. Proposals with a poor rating are not awardable.

7.3.2-20 - Evaluation of Past Performance - July 2008

(a) Past Performance Factor. Under the Past Performance factor, the performance confidence assessment is an evaluation of an offeror's past work record to assess the FDIC's confidence in the probability that offeror can successfully perform, as proposed. The FDIC will evaluate the offeror's demonstrated record of contract compliance in supplying services that meet user's needs, including management of cost and schedule. The Past Performance Evaluation is accomplished by reviewing aspects of an offeror's relevant past performance, focusing on and targeting performance that is relevant to the Mission Capability subfactors. In determining relevance, contracts of similar project complexity, scope, type, and schedule are considered. Data on efforts performed by

other divisions within offeror's organization and by critical subcontractors may also be considered, if such resources significantly influence the offeror's performance of the proposed effort.

(b) The FDIC may consider as relevant contracts performed for agencies of the federal, state or local governments, and for commercial customers. Each offeror will receive an integrated performance confidence assessment, which is the rating for the Past Performance factor. While the Past Performance Evaluation focuses on performance that is relevant to the Mission Capability subfactors, the resulting performance confidence assessment is made at the factor level and represents an overall evaluation of contractor performance.

(c) Where the relevant performance record indicates performance problems, the FDIC will consider the number and severity of the problems and the appropriateness and effectiveness of any corrective actions taken (not just planned or promised). The FDIC may review more recent contracts or performance evaluations to ensure corrective actions have been implemented and to evaluate their effectiveness.

(d) The following criteria will be used to determine relevancy of previous contracts:

HIGHLY RELEVANT - The magnitude and the complexity of the effort on this contract are essentially the same as the solicitation.

RELEVANT - Some dissimilarity in the magnitude or the complexity of the effort on this contract exists, but it contains most of what the solicitation requires.

NOT RELEVANT - Performance on this contract contains little similarity to the performance required by this solicitation.

Each offeror will receive one of the ratings described below:

RATING DEFINITION

Exceptional/High Confidence - Based on the offeror's performance record, essentially no uncertainty exists that the offeror will successfully perform the required effort.

Very Good/Significant Confidence - Based on the offeror's performance record, little uncertainty exists that the offeror will successfully perform the required effort.

Satisfactory/Confidence - Based on the offeror's performance record, some uncertainty exists that the offeror will successfully perform the required effort.

Neutral/Unknown Confidence - No performance record can be established.

Marginal/Little Confidence - Based on the offeror's performance record, substantial uncertainty exists that the offeror will successfully perform the required effort. Changes to the offeror's existing processes may be necessary in order to achieve contract requirements.

Unsatisfactory/No Confidence - Based on the offeror's performance record, extreme uncertainty exists that the

offeror will successfully perform the required effort.

(e) Discussions may be conducted as necessary to provide the offeror an opportunity to address any adverse past performance, or clarify the relevancy of the offeror's past performance information or address minor clerical issues.

(f) Offerors without a record of relevant past performance or for whom information on past performance is not available will not be evaluated favorably or unfavorably on past performance, but will receive a "Neutral/Unknown Confidence" rating for the Past Performance factor.

(g) More recent and relevant performance will have a greater impact on the Performance Confidence Assessment than less recent or relevant effort. A strong record of relevant past performance may be considered more advantageous to the FDIC than a "Neutral/Unknown Confidence" rating. Likewise, a more relevant past performance record may receive a higher confidence rating and be considered more favorably than a less relevant record of favorable performance.

(h) Past performance information may be obtained through other Government systems, questionnaires tailored to the circumstances of this acquisition, interviews with program managers and contracting officers, and other sources known to the FDIC, including commercial sources and any other sources deemed appropriate.

7.3.2-22 - Evaluation of Pricing - July 2008

Price proposals will be evaluated with respect to completeness, reasonableness, and realism. The Contracting Officer may also evaluate the Overall Evaluated Price (OEP) for each offeror.

Completeness. Offerors must submit their proposed prices in accordance with the Pricing Schedule. Offerors must submit fully loaded rates. Offers failing to propose a price for all mandatory categories may receive no further consideration and may be eliminated.

Reasonableness. FDIC will evaluate prices for rates using one or more of the following techniques.

- (a) Comparing the proposed prices to those of other offerors.
- (b) Comparing the proposed prices to FDIC's independent estimate and those in other FDIC contracts.
- (c) Comparing the proposed prices to the prices in the company's GSA Schedule or commercial price list.

Prices that are extreme (high or low) may be judged unreasonable.

Realism. Rates that do not reflect a reasonable compensation for the work required in any category will be considered unrealistic.

Overall Evaluated Price (OEP): The OEP will be computed based on the total of the following:

- (a) The offeror's proposed rates for each category multiplied by the level of effort.
- (b) The FDIC-reimbursed travel costs.

7.3.2-23 - Evaluation of Financial Capability - July 2008

The FDIC will evaluate the financial capability of the potential awardee(s) on a "pass/fail" basis.

7.3.2-29 - Award - Best Value - July 2008

FDIC will base the award on an integrated assessment of the evaluation factors and sub-factors. FDIC has the sole discretion to determine which proposal(s) represents the best value to the FDIC. A technically acceptable offer other than the one with the lowest-evaluated price may be awarded the contract.