

REQUEST FOR PROPOSALS
to serve as
INSURANCE CONSULTANT FOR THE
NEW YORK STATE HOUSING FINANCE AGENCY

I. BACKGROUND

A. THE AGENCY

The New York State Housing Finance Agency (“HFA” or the “Agency”) is a New York State (“State”) public benefit corporation created and empowered by Article III of the State’s Private Housing Finance Law, as amended, to increase the supply of housing accommodations in the State affordable to families and persons of low or moderate income, and to encourage the investment of private capital in this mission.

HFA lends the proceeds from the sale of tax-exempt private activity bonds, tax-exempt 501(c)(3) bonds, and taxable bonds to private for-profit and not-for-profit sponsors for the acquisition, construction, preservation and rehabilitation of multifamily rental housing developments, including senior housing and special needs housing. HFA bond proceeds generally provide the primary source of funds for the housing developments, with subordinate funding provided by other state agencies, the federal government and local sources. A critical source of funds is through the Federal Low Income Housing Tax Credit Program.

All bond financed transactions must have a form of credit enhancement acceptable to the Agency. Credit enhancement provides an additional source of funds for the payment of principal and interest on the bond proceeds lent should the financed project be unable to meet its obligation to do so. Credit enhancement may be provided by banks, insurance companies, bond insurers, sureties, FHA, Fannie Mae, Freddie Mac, Ginnie Mae, the State of New York Mortgage Agency (“SONYMA”) and through the HFA/FHA Risk Sharing Program.

B. PURPOSE OF REQUEST FOR PROPOSALS (“RFP”)

HFA is seeking an insurance consultant experienced in the financing of acquisition, construction and rehabilitation of multi-family housing to provide information, guidance and reports regarding insurance industry costs, trends and requirements, as well as to perform reviews of specific housing projects’ compliance with Agency requirements. The scope of the contractual engagement is more fully described in the Scope of Services section below.

It is expected that the Agency will enter into a three year contract with the consultant, with an option to extend for a further term. HFA provides no assurances as to the actual number of loans it will close during the term of the consultant's engagement for which insurance advice and compliance reviews will be required.

C. SCOPE OF SERVICES

The consultant's primary responsibility will be to perform insurance requirement compliance reviews for proposed construction and permanent mortgage loans, including types and amounts of coverages, Best Ratings, etc. It is expected that the consultant will inform the Agency when revisions to its requirements may be appropriate. The consultant will, in a timely manner, review evidence of insurance coverages, waiver requests, and related submissions. It is expected that there will be substantial interaction between the consultant and the borrower's insurance broker. The consultant will be required to provide a written opinion as to whether the Agency should grant any waiver request.

A written report on the status of the compliance review will be required approximately one week prior to the distribution of the Preliminary Official Statement or Official Statement for the bond issue that will be used to finance the project. Additionally, a final written report assessing the borrowers' compliance with the Agency's insurance requirements must be presented to the Agency at least three full business days prior to the scheduled closing.

In addition to the specific tasks detailed above, the consultant may be called upon to provide advice and/or reports in other insurance related areas, such as:

- projected rates of premium increases for specific projects.
- analysis of trends in the insurance industry, including types, availability of, and costs of coverage (e.g., Builder's Risk, Owners and Contractors' Protective Liability, Terrorism, Earthquake.)
- market differences by geographic areas (e.g., upstate vs. downstate) and types of housing (e.g., high rise vs. garden apartments)
- anticipated changes in the insurance industry (e.g. mergers of major carriers, coverage limits, new policy types, etc.).

II. CONTENT OF PROPOSAL

A. REQUIRED SUBMISSION: STATEMENT OF QUALIFICATIONS

PROPOSALS MUST NOT EXCEED 15 PAGES, PLUS EXHIBITS. Each proposal submitted in response hereto should, at a minimum, include the following:

1. Firm Description. Provide an overview of the firm, its history and number of years in business, together with a summary of relevant experience, including identification of experience with federal and state housing programs. A list of federal, state and local governmental entities that the consultant has worked with must be included. Reference checks conducted by HFA must show the firm to be well regarded in the marketplace in terms of report content, timeliness and responsiveness.
2. Project Management and Assigned Staff. Identify the principals, managers and personnel at the firm who would be directly involved with HFA and provide copies of their resumes. The firm must demonstrate that the individuals have experience with multi-family housing projects.
3. Location. Identify the locations of offices of the firm from which the firm expects to offer services to HFA. Demonstrate that these locations will be capable of providing the services required.
4. Proposal for Fees and Costs. Provide a schedule of the firm's fees and costs to provide the required services. The fees and costs must include all anticipated expenses. The consultant should also provide an hourly fee that will be charged for periodic updates, consultations, etc.
6. Multifamily Housing Clients. In addition to the governmental clients listed above, the proposal should include a representative listing of at least 3 persons or entities involved in multi-family housing lending for whom the firm has provided services. The names and telephone numbers of individuals at such entities who may be contacted to provide references must be included
7. Evidence of Adequate Insurance Coverage. Please submit evidence of the firm's insurance coverage on ACORD Certificates of Insurance or some other generally recognized evidence of insurance. Kindly include limits, basis of coverage if relevant (i.e., occurrence or "claims made" basis) and carrier information for General Liability, Professional Liability (errors and omissions), Fidelity Bond (blanket crime, forger, and theft) and Workers' Compensation/ Employers' Liability coverages.
8. New York Corporation. Provide proof that the firm is a New York State corporation, or it is duly qualified to do business in New York, and is subject to the jurisdiction of the courts of the State, or indicate a willingness to so qualify if selected by HFA.

9. Confidentiality. Information concerning the Agency's portfolio of housing projects must be kept confidential and proprietary. Describe the firm's procedures to ensure such confidentiality.
10. Sanctions. Provide a statement as to whether the firm or any related entity, or any individual who is or was a principal of either, was subject to administrative action or sanction by HUD, HFA or its subsidiaries (i.e., New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency or the Tobacco Settlement Financing Corporation), SONYMA, Fannie Mae, Freddie Mac, Ginnie Mae, the State, or any agency or instrumentality thereof or any other government housing or finance agency in the preceding five years. If so, please provide an explanation.
11. Submission of data and Contractor and Vendor Information FORM as requested in Section II. B. of this RFP regarding the subject matter of Affirmative Action and Equal Opportunity;
12. Submission of the Conflict of Interest statement as further described in Section II. C. of this RFP;
13. Submission of the Non-Collusive Bidding Certification FORM as further described in Section II. D. of this RFP; and
14. Submission of Lobbying Reform Law FORM 1 and Lobbying Reform Law FORM 2 as further described in Section II. E. of this RFP.

B. AFFIRMATIVE ACTION/EQUAL OPPORTUNITY AND RELATED TOPICS

1. It is the goal of the Agency to award contracts to contractors that evidence compliance with the laws of the State prohibiting discrimination in employment.
 - All firms/companies with fifty or more employees are required to submit to the Agency a copy of an officially adopted Affirmative Action Plan (the "Plan") in effect for the firm/company, or explain why the firm/company is not covered by a Plan.
 - All firms/companies with fewer than fifty employees must submit to the Agency a statement of commitment to affirmative action and equal employment opportunity executed by an appropriate officer or principal.
 - All firms/companies must submit data regarding the ethnic origin and sex of all firm/company employees by job classification (e.g., officers, managers, professionals, clericals, etc.). The data should include these categories: (i) for males: White (not Hispanic), African American (not Hispanic), Hispanic, Asian American/Pacific Islander, and American Indian/Alaskan Native; (ii) for females: White (not Hispanic), African American (not Hispanic), Hispanic, Asian American/Pacific Islander, and American Indian/Alaskan Native. A copy of a Form EEO-1 prepared by the firm/company will

satisfy this requirement.

2. It is the goal of the Agency to promote and assist the participation of firms/companies that are classified as Minority-Owned Business Enterprises (“MBEs”) or Women-Owned Business Enterprises (“WBEs”) in competition for procurement contracts, and to award a fair share of procurement contracts to MBEs/WBEs. Certified MBEs/WBEs must be registered as such with the Empire State Development Corporation (“ESDC”), New York’s economic development agency. Information concerning the availability of State subcontractors and suppliers is also available from ESDC.
 - Copies of certification letters from ESDC must be provided to the Agency with this proposal.

Click here to download a copy of the Agency’s [Contractor/Vendor Information FORM](#), which must be completed and provided to the Agency with the proposal. Indicate (i) if the firm/company has received State certification as an MBE/WBE or (ii) if the firm/company is a MBE/WBE, but is not certified as such by State.

3. It is the goal of the Agency to ensure compliance with federal Equal Employment Opportunity Act of 1972, as amended. Firms/companies with fifteen or more employees responding to this RFP, must submit a statement disclosing whether the firm/company is currently operating under or negotiating, or has at some time in the last 5 years operated under or negotiated, a conciliation agreement with the Equal Employment Opportunity Commission (“EEOC”); has been, at some time in the last 5 years, or is currently the subject of a civil action brought against it by the EEOC; has been, at some time in the last 5 years, or is currently the subject of an action brought against it by the EEOC for permanent, temporary or preliminary relief; has operated, at some time in the last 5 years, or is currently operating under an order of a court to take affirmative action as a result of a civil action brought against it by EEOC.
4. It is the goal of the Agency to promote the participation of New York State Business Enterprises and New York State Residents in Procurement Contracts. For potential bidders located in foreign countries, the Agency may assign or otherwise transfer offset credits created by procurement contracts, directly or indirectly, to third parties located in the State, in accordance with the written directions of the Commissioner of Economic Development. The Agency cooperates with the department of economic development in efforts to get foreign countries to recognize offset credits assigned or transferred to third parties located in the State created by procurement contracts.

C. CONFLICT OF INTEREST

A statement must be provided indicating whether performing services for the Agency would create any potential conflict of interest, or appearance of impropriety, relating to other clients/customers of the respondent or former officers and employees of the Agency. Indicate what procedures will be followed to detect, notify the Agency of, and resolve any such conflicts.

All firms/companies must disclose whether its firm/company, or any of its members discussed in

the above paragraph, has been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, “Commission”), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

D. NON-COLLUSIVE BIDDING CERTIFICATION

Click here to download a copy of the [Non-Collusive Bidding Certification FORM](#) which must be completed and provided to the Agency with the proposal. The proposal is required to include certifications to the Agency that: (i) the prices or rates in the proposal(s) were arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, or as to any matter relating to such prices or rates with any other Contractor or with any competitor; (ii) unless otherwise required by law, the prices or rates which have been quoted in the proposal were not knowingly disclosed by a Contractor prior to opening, directly or indirectly, to any other Contractor or with any competitor; and (iii) no attempt was made or will be made by the Contractor to induce any other person, partnership or corporation to submit or not submit a bid or proposal for the purpose of restricting competition.

E. LOBBYING REFORM LAW

All Offerers^a are required to make a statement in the format prescribed in [Lobbying Reform Law FORM 1](#) (click here to download a copy of this FORM), affirming that they understand and will abide by provisions of the New York State Finance Law related to whom may be contacted during the procurement process. Pursuant to State Finance Law §§139-j and 139-k^b and the Agency’s Procurement and Contract Guidelines^c, this RFP includes and imposes certain restrictions on communications between the Agency and an Offerer/proposer during the Procurement process. From the issuance of this RFP through final award and approval of the Procurement Contract the (“Restricted Period”), an Offerer/proposer is restricted from making Contacts^d (i.e., any oral, written or electronic communication from a Contractor or Vendor, or their representatives, under circumstances where a reasonable person would infer that the communication was intended to influence an Agency Procurement) to anyone other than

^a “Offerer” shall mean, for purposes of applying the Lobbying Reform Law in relation to any Agency Procurement with actual or anticipated annualized expenditures in excess of \$15,000, an individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts a Governmental Entity about a Governmental Procurement during the Restricted Period of such Governmental Procurement.

^b Please refer to the following link in the New York State Office of General Services web site:
<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

^c Please refer to the following link on the Agency’s web site to view the Agency’s Guidelines:
<http://www.nyhomes.org/Modules/ShowDocument.aspx?documentid=1395>

^d “Contact” shall mean, for purposes of applying the Lobbying Reform Law in relation to any Agency Procurement with actual or anticipated annualized expenditures in excess of \$15,000, any oral, written or electronic communication from a Contractor or Vendor, or their representatives, under circumstances where a reasonable person would infer that the communication was intended to influence an Agency Procurement.

Designated Contact Officer, Alejandro J. Valella, Vice President and Deputy Counsel, unless such communication is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). These Permissible Subject Matter Communications are described in the Agency's Lobbying Reform Law Policies^e.

Employees of the Agency are also required to obtain certain information when a Contact is received from an Offerer/proposer during the Restricted Period and to make a Determination of Responsibility^f of the Offerer/proposer pursuant to State Finance Law §§139-j and 139-k. Certain findings of non-responsibility can result in rejection of a Contract award, and in the event of two findings within a 4 year period, the Offerer/proposer is debarred from obtaining governmental Contracts. This RFP requires Offerers to disclose prior findings of non-responsibility to the Agency in the format prescribed in [Lobbying Reform Law FORM 2](#) (click here to download a copy of this FORM). Further information about these requirements is found in the Agency's Lobbying Reform Law Policies.

F. FREEDOM OF INFORMATION LAW

During the evaluation process, the content of each proposal will be held in confidence and details of any proposal will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. SHOULD YOU FEEL YOUR FIRM'S PROPOSAL CONTAINS ANY SUCH TRADE SECRETS OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION, YOU MUST SUBMIT A REQUEST TO EXCEPT SUCH INFORMATION FROM DISCLOSURE. SUCH REQUEST MUST BE IN WRITING, MUST STATE THE REASONS WHY THE INFORMATION SHOULD BE EXCEPTED FROM DISCLOSURE AND MUST BE PROVIDED AT THE TIME OF SUBMISSION OF THE SUBJECT INFORMATION. KINDLY LIMIT ANY REQUESTS FOR EXEMPTION OF INFORMATION FROM DISCLOSURE TO BONA FIDE TRADE SECRETS OR SPECIFIC INFORMATION, THE DISCLOSURE OF WHICH WOULD CAUSE A SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF YOUR FIRM. REQUESTS FOR EXEMPTION OF THE ENTIRE CONTENTS OF A PROPOSAL FROM DISCLOSURE ARE DISCOURAGED.

^e Please refer to the following link on the Agency's web site to view the Agency's Lobbying Reform Law Policies: <http://www.nyhomes.org/Modules/ShowDocument.aspx?documentid=1398>.

^f "Determination of Responsibility" shall mean, for purposes of applying the Lobbying Reform Law in relation to any Agency Procurement with actual or anticipated expenditures in excess of \$15,000, a final determination required to be made by the Agency of the proposed Contractor or Vendor to whom the Contract is to be awarded in accordance with Public Authorities Law Section 2879 (3) (b) (iii).

III. CRITERIA FOR SELECTION

A committee of HFA staff will review the submissions made in response to this RFP. The committee members will evaluate the submissions based on how well each submission addresses the items listed in Section II of this RFP.

IV. MISCELLANEOUS CONDITIONS

- A. The issuance of this RFP and the submission of a response by any firm/company or the acceptance of such response by the Agency do not obligate the Agency in any manner whatsoever. Legal obligations will only arise upon execution of a formal contract by the Agency and the firm/company selected by the Agency.
- B. The Agency reserves the right to: (i) amend, modify, or withdraw this RFP; (ii) revise any requirements of this RFP; (iii) require supplemental statements or information from any responding party; (iv) accept or reject any or all responses hereto; (v) extend the deadline for submission of responses hereto; (vi) negotiate or hold discussions with any firm/company and to correct deficient responses which do not completely conform to the instructions contained herein; (vii) cancel, in whole or in part, this RFP, if the Agency deems it in its best interest to do so; and (viii) hold a pre-bid conference, at the Agency's option, with all bidders, to answer questions and provide applicable information as necessary; and (ix) interview a firm/company prior to selection. The Agency may exercise the foregoing rights at any time without notice and without liability to any respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise, subject to any legal restrictions applicable to the Agency. Responses hereto will be prepared at the sole cost and expense of the responding party.
- C. This RFP and any agreement which may result from it are subject to all applicable laws, rules, and regulations promulgated by any federal, state, or local authority having jurisdiction over the subject matter hereof, as the same may be amended from time to time.
- D. The Agency shall be the sole judge of whether a response complies with the requirements of this RFP and the merits of such response. Nothing contained in this RFP or in the selection of a firm/company to provide services to the Agency shall limit the Agency in its selection of a firm/company to be issued RFPs in relation to these services or RFPs for any projects in the future.
- E. Nothing stated at any time by any representative of the Agency will effect a change in or constitute an addition to this RFP unless confirmed in writing by the Agency.
- F. Firms/companies responding hereto must agree to keep confidential their responses and any information received from the Agency.

- G. Any firm/company selected as a result hereof will be required to execute a contract prescribed by the Agency, and to abide by all relevant laws and policies of the Agency with regard to, among other things, conflicts of interests, ethics, lobbying law, policies, etc.
- H. The Agency believes the information set forth in this RFP is accurate. However, the Agency, its Members, Officers, agents and employees assume no responsibility for errors and omissions contained therein.
- I. Under no circumstances (including withdrawal of this RFP before or after bids are received) will any bidder have any recourse against the State of New York or the Agency, its Members, Officers, agents or employees for any expenses incurred or damages sustained as a result of the bidding process.
- J. The Agency reserves the right to select a firm/company based on the proposal that the Agency deems best in their sole discretion, which may not include the lowest bid.
- K. The Agency's Committee, designated to review and recommend bid proposals, reserves the right to select the most-qualified proposals for further review and negotiation.
- L. Firms/companies are advised that the selection of a Contractor, pursuant to this RFP, shall not guarantee a request by the Agency that any services be performed.

V. RESPONSE SUBMISSION

Completed proposals shall be submitted to the Agency only in pdf. file format and emailed to Proposal@nyhomes.org. The "Subject" line of the email should say, "2009/July Insurance Consultant." The email must be received by the Agency no later than 3:00p.m., Eastern Standard Time, July 27, 2009.

For all lobbying law Contacts (i.e., any oral, written or electronic communication from a Contractor or Vendor, or their representatives, under circumstances where a reasonable person would infer that the communication was intended to influence an Agency Procurement) as described in Section II.E. herein), please contact:

Alejandro J. Valella, Vice President and Deputy Counsel
New York State Housing Finance Agency
641 Lexington Avenue, New York, New York 10022
(212) 872-0360

Email: AValella@nyhomes.org

If you have questions regarding the RFP or would like to contact the Agency regarding issues not relating to lobbying law Contacts (as described in section I.G. herein), please contact:

Kenneth Kelly
Director of Financial Operations – Housing Portfolio Management
New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022
(212) 872-0321
Email: KKelly@nyhomes.org

Other than the contact persons (as described in Section V. herein), prospective proposers shall not approach Agency employees during the period of this RFP process about any matters related to this RFP or any proposals submitted pursuant thereto.

All questions must be submitted in writing via email to KKelly@nyhomes.org. The “Subject” line of the email should say, “Insurance Consultant July 2009 Questions”. The email must cite the particular proposal section and paragraph number. Proposers should note that all clarifications and exceptions are to be resolved prior to the submission of a proposal. The Agency will answer all questions of a substantive nature by means of questions and answers (Q&A) posted on the Agency’s website which will be periodically updated as need be. Firms/companies are advised to review such postings by visiting the Agencies’ website at <http://www.nyhomes.org> and by clicking on “Forms, Applications and Resources” and then “RFPs/RFQs”.