

Solicitation #CORP2015-01

Arizona Home Foreclosure Prevention Funding Corporation
in partnership with the Arizona Department of Housing

Request for Qualifications

**For Housing Counseling Agencies to provide counseling and loan
Modification/assistance services to the Save Our Home
AZ Program**

INTRODUCTION

In the spring of 2010, President Barack Obama announced a special federal initiative to assist with mortgage foreclosure prevention called Help for the Hardest Hit Housing Markets, also known as the Hardest Hit Fund. Within that initiative, the state of Arizona was slated to receive \$267 million in funding made available through the Emergency Economic Stabilization Act of 2008 (EESA) which is administered by the U.S. Department of Treasury (Treasury).

In order to meet the requirements for accepting the award, states were required to establish a corporation for the acceptance of the monies. In Arizona, the Arizona Home Foreclosure Prevention Funding Corporation (the Corporation) was established for this purpose. The Corporation in turn has contracted with the Arizona Department of Housing (ADOH) to administer the day-to-day administration and oversight of the program on its behalf. To that end, ADOH on behalf of the Corporation is issuing this Request for Qualifications (RFQ) in order to select additional qualified Housing Counseling Agencies to provide counseling and loan modification/assistance services through the program, which has been named Save Our Home AZ.

Arizona Home Foreclosure Prevention Funding Corporation
c/o Arizona Department of Housing
1110 West Washington, Suite 310, Phoenix, Arizona 85007
Telephone (602) 771-1000 Facsimile (602) 771-1002 Web www.azhousing.gov

PURPOSE

ADOH is currently contracting with a number of housing counseling agencies to assist with several aspects of this assistance. In order to expand its program delivery abilities, ADOH is seeking to add additional Housing Counseling agencies to provide services under this program. Qualified agencies must demonstrate capacity to deliver the services described in the Scope of Work and hold the Qualifications outlined under Experience in this RFQ.

The Program includes these components:

Principal Reduction/Permanent Mortgage Modification or Eligible Refinance Contribution (1st Mortgage)

1. Assistance up to \$100,000 (including all other program assistance).
2. APT Pass (Maximum P&I is equal to or greater than 100% NROREO minimum P&I).
3. Mortgage balance greater than 120% of subject property's Fair Market Value.

Second Mortgage Settlements

1. Extinguishment Assistance available up to \$60,000.
2. Assistance up to 40% of outstanding loan balance maximum \$8,500.00, when combined with Short Sale Assistance component below.
3. APT Pass (Maximum P&I is equal to or greater than 100% of NROERO P&I) or qualified for other programs or components.
4. Combined mortgage balance of first and second is greater than 120% of subject property's Fair Market Value. Under 120% requires minimum of \$20,000 negative equity and 10% outstanding UPB.

Unemployment/Underemployment/Reinstatement Mortgage Assistance (UMA) (1st Mortgage)

1. Assistance up to \$100,000.00 (including all other program assistance) with a maximum of 24 months of assistance minus the number of rescue payments.
2. Reinstatement assistance may bring first mortgage current by curing all past due payments including; accrued interest, late fees, NSF fees and any legal fees (maximum number of payments rescued is 12).
3. Maximum amount of monthly assistance is \$2,000 or the mortgage payment minus 31% of borrower's monthly gross income excluding unemployment assistance.
4. UMA and Reinstatement assistance is available up to \$48,000.

Short Sale Assistance

1. Assistance up to \$25,000.00 (including all other program assistance) distributed in the following manner.
2. Maximum of \$4,500.00 in transition assistance paid to the consumer.
3. Maximum of 3% of the sales price for buyer's closing costs paid on behalf of the seller.

SCOPE OF WORK

Below is a description of various aspects of program delivery processes and a list of tasks and deliverables chosen counseling agencies will be required to provide.

Application Process. Interested consumers will be encouraged to access the Program website at www.azhousing.gov to begin the application process. Various tools will be available on the website to assist prospective consumers in determining if they are eligible for the program. Prior to accessing a program application, a filter will be applied that will notify potential participants whether or not they appear to be eligible for the program. Interested individuals who do not qualify will still be given a referral to a counseling agency, but will not proceed to the application portion of the website. Those who appear to initially qualify will need to complete the online application and follow the application submission instructions. Program information will also be available through a toll-free hotline that can connect interested consumers with a participating Counseling Agency. Individuals without access to the internet may work with the Counseling Agencies to complete their applications on-line.

Counseling Agency tasks with respect to the application process, basic counseling to ineligible homeowners, homeowners without access to the internet, and potentially eligible homeowners includes:

Ineligible homeowners. With respect to homeowners who do not appear eligible for financial assistance based on the website filter, they are referred to Counseling Agencies for basic foreclosure counseling.

Homeowners without access to the Internet. With respect to homeowners who do not have access to the internet, Counseling Agencies will be required to complete the web application on behalf of interested homeowners. This may require a meeting with the homeowner or may be done over the telephone. Based on the results of the pre-screening filter, the Counseling Agency will either provide basic foreclosure counseling to those who fail to qualify to pass the pre-screening filters, or will move the homeowner along in the process for financial assistance for those who appear to be qualified for assistance.

Potentially eligible homeowners. With respect to homeowners who do appear to be potentially eligible for financial assistance based on their submission of a completed application through the website, Counseling Agencies will be required to review the application in detail, meet in person with the household seeking the assistance, and to devise the best possible solution for that household based on specific tests for determining program assistance.

Financial Assistance. If a Counseling Agency determines that a homeowner they are assisting is eligible for financial assistance through the program, the Counseling Agency will submit a completed application package to ADOH for further review and determination. ADOH underwriters will review the package and make a recommendation to the Program's Transaction Manager Coordinator as to whether or not the package should be submitted to the lender for a loan modification or other type of assistance available through the program. If ADOH approves the recommendation and determines to move the package forward with the lender, ADOH will be charged with submitting the package to the lender and conducting any follow up necessary to receive a loan modification/assistance agreement. The Counseling Agency is encouraged to following up with the lender as well. If the lender agrees to the modification/assistance, the Counseling Agency will notify ADOH, where all loan modification/assistance

documentation will be drawn up and delivered to the title company. The Counseling Agency will coordinate the signing of the documents and the modification/assistance with the title company and the consumer. The Title Company will send the signed documents to the Counseling Agency who will put the package together and request reimbursement from ADOH for services rendered. The actual transfer of financial assistance to the title company for closing will be sent directly by the Corporation to the title company. No actual financial assistance dollars will flow through the Counseling Agencies.

Quarterly Continuing Eligibility Evaluations. Consumers approved for Under/Unemployment Assistance are required to participate in Quarterly Continuing Eligibility Sessions. These sessions may be face-to-face or via the phone depending on how certain circumstances dictate. The primary objective is to ensure the consumer is eligible to continue to receive assistance or if any necessary adjustments in assistance exist.

Foreclosure Counseling Agency Reporting. In addition to its transmittals for individual applicants and assistance, the foreclosure counseling agency shall submit monthly reports to ADOH updating program activity, using the Save Our Home AZ Program report. ADOH may request additional information from the foreclosure counseling agencies as needed to meet its monitoring or reporting obligations to the federal and state governments.

Foreclosure Counseling Agency Record Maintenance. The foreclosure counseling agency shall establish assistance documentation files for each applicant originated through the foreclosure counseling agency and retain those files for the term of the program assistance loan plus three years (e.g., 13 years if the term of the loan was 10 years).

EXCLUDED ITEMS

The chosen Counseling Agencies shall be required to provide their own working space, office equipment and supplies, transportation, meeting spaces, insurance and all other materials necessary to perform the functions described in this RFQ.

EXPERIENCE

Responsive proposals will demonstrate that their agency meets the following Qualifications: Candidates must hold current Industry Certification specifically designating them as counseling agencies trained and qualified to provide housing counseling services. ADOH will verify that these requirements have been met specifically for housing counseling services.

COMPENSATION

Counseling Agency partners will be compensated through several mechanisms, including:

- \$150 Initial Eligibility Determination
- \$275 application evaluation fee on all initial Approved applications reviewed up to 5
- \$375 application evaluation fee on all Approved applications in excess of 5
- \$150 UMA Quarterly Continued Eligibility Evaluation

RESPONSIBLE ADMINISTRATOR

The chosen Counseling Agencies will report to the Responsible Administrator:

Reginald Givens
SOHAZ Administrator
Arizona Department of Housing
1110 W. Washington, Suite 310
Phoenix, AZ 85007

UNIFORM INSTRUCTIONS TO OFFERORS

1. DEFINITION OF TERMS USED IN THESE INSTRUCTIONS

- A. *“Attachments”* means all items required of the Offeror as a part of the Offer.
- B. *“Contract”* means the combination of the Solicitation, including the Uniform and Special Instructions to Respondents, the Uniform Terms and Conditions, and the Specifications and Statement or Scope of Work; the Response and any Best and Final Responses; and any Solicitation Amendments or Contract Amendments; and any terms applied by law.
- C. *“Contract Amendment”* means a written document signed by the Program Administrator that is issued for the purpose of making changes in the Contract.
- D. *“Days”* means calendar days unless otherwise specified.
- E. *“Contractor”* means any person who has a Contract with the Corporation.
- F. *“Exhibits”* means all items attached as a part of the Solicitation.
- G. *“Gratuity”* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- H. *“Offer”* means bid, proposal or quotation.
- I. *“Offeror”* means a vendor who responds to a Solicitation as defined in Paragraph 1.H.
- J. *“Responsible Coordinator”* means the person duly authorized to administer the contracts and make written determinations with respect to the Contract or his or her designee.
- K. *“Solicitation”* means this request for qualifications (“RFQ”).
- L. *“Subcontract”* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party for performance of any work, for the making or furnishing of any material or any service required for the performance of the Contract.
- M. *“State”* means the Department or Agency of the State that issues this solicitation.

2. PREPARATION OF OFFER

- A. *Forms: No Facsimile or Telegraphic Offers.* An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation shall be legible and contain the same information requested on the forms. A facsimile, telegraphic or Mailgram Offer shall be rejected.
- B. *Typed or Ink; Corrections.* The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.
- C. *Duty to Examine.* It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing, and check its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for withdrawing the Offer after the offer due date and time nor shall it give rise to any

Contract claim.

- D. *Exceptions to Terms and Conditions.* Requests for Proposal: An Offer that takes exception to a requirement of any part of the Solicitation shall clearly identify the specific paragraph(s) where the exception(s) occurs. All exceptions that are contained in the Offer may negatively affect the Department's proposal evaluation based on the evaluation criteria as stated in the Solicitation or result in rejection of the Offer. The Offeror's preprinted or standard terms will not be considered by the Department as a part of any resulting Contract.
- E. *Subcontracts.* Offeror shall clearly identify any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer (e.g., for inspection services, etc.)
- F. *Special Instructions to Offerors.* Special Instructions to Offerors, if any, attached to this Solicitation shall supersede any conflicting provision of these Uniform Instructions.
- G. *Certifications* The Offer shall include the Offeror's certification that
 - 1. the Offeror is informed as to the terms and provision of the Solicitation and the Contract;
 - 2. the Offeror has not engaged in collusion or anti-competitive practices in preparation of the Offer; and,
 - 3. the Offeror has not been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

3. INQUIRIES

- A. *Procurement Officer.* Any inquiry related to a Solicitation shall be directed solely to the Procurement Officer. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other Department employee unless the Solicitation specifically identifies a person other than the Solicitation contract person as a contact.
- B. *Submission of Inquiries.* The Procurement Officer identified in the Solicitation as the contact for inquiries may require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate page and paragraph.
- C. *Timeliness.* Any inquiry shall be submitted as soon as possible and at least seven days before the Offer due date and time. Failure to do so may result in the inquiry not being answered.
- D. *No Right to Rely on Verbal Responses.* Any inquiry that raises material issues and results in changes to the Solicitation shall be answered solely through a written Solicitation amendment. An Offeror may not rely on verbal responses to its inquiries.
- E. *Standards.* Any requests for or inquiries regarding standards referenced in the Solicitation shall be referred to the Solicitation contact person.

4. AMENDMENTS TO SOLICITATION

The Department may amend the Solicitation by posting the amendments on the Department website (www.azhousing.gov) no later than 5 days before the Offer due date.

5. SUBMISSION OF OFFER

- A. *Sealed Envelope or Package.* Each Offer shall be submitted to the submittal location identified in this Solicitation, in a sealed envelope or package that identifies its contents.
- B. *Late Offers.* An Offer submitted after the exact Offer due date and time shall be rejected.

- C. *Offer Amendment or Withdrawal.* An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.
- D. *Public Record.* Under applicable law, all Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer is proprietary or should remain confidential, it shall stamp as confidential that information and submit a statement with its Offer detailing the reasons that information should not be disclosed.

6. OFFER ACCEPTANCE PERIOD

An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be ninety (90). The Department may conduct negotiations with offerors reasonably susceptible of being selected for award during the Offer Acceptance Period.

7. COST OF OFFER PREPARATION

The Department shall not reimburse any Offeror the cost of responding to a Solicitation.

8. AWARD OF CONTRACT

- A. *Number or Types of Awards.* Where applicable, the Department reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, whichever is deemed most advantageous to the Department. If the Director determines that an aggregate award to one Offeror is not in the Department's best interest, "all or none" offers shall be rejected.
- B. *Waiver and Rejection Rights.* Notwithstanding any other provision of the Solicitation, the Department reserves the right to:
 - 1. Waive any immaterial defect or informality;
 - 2. Accept or reject any and all Offers or portions thereof;
 - 3. or Cancel a Solicitation;
 - 4. to obtain information concerning any or all Offerors from all sources; and,
 - 5. to request an oral presentation from any or all Offerors.
- C. *Right to Reject.* Responses that do not comply with the conditions specified in this RFQ may be rejected. The Department also may reject a Response that does not include all requested information.
- D. *Final Determination.* The Director shall file a written determination specifying the reasons for the decision.
- E. *Contract Inception.* This RFQ does not commit the Department to award a contract to any Offeror. An Offer does not constitute a contract nor does it confer any rights on the Offeror to the award of a contract. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

10. PROTESTS

- A. Pursuant to Arizona Revised Statutes Section 41-3953(D), the subject of this Request for Proposals is exempt from the Arizona Procurement Code (Arizona Revised Statutes Title 41, Chapter 23). General provisions of Arizona Law and the terms and provisions of the Contract shall be the sole basis for determination of breach by the Department. Deviation from the requirements of the procurement code shall not be grounds for invalidation of a final determination under this Contract.
- B. An interested party may protest an award of a contract under this Solicitation by

filing a protest with the Director by no later than the end of the business day ten (10) days after the day the final determination is made.

- C. The protest shall include:
 - 1. The name, address and telephone number of the protesting party;
 - 2. The signature of the protesting party or its representative;
 - 3. Identification of the Solicitation;
 - 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
 - 5. The form of relief requested.
- D. The Director will issue a written determination to the applicant no later than ten (10) business days after the date of delivery of the protest for Director's review.
- E. A determination by the Director upon a protest constitutes an Appealable Agency Action pursuant to Arizona Revised Statutes Title 41, Chapter 6, Article 10. The protesting party shall have the burden of demonstrating that the Department materially deviated from the terms of this Solicitation.

11. **AMERICANS WITH DISABILITIES ACT**

People with disabilities may request special accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for special accommodations must be made with seventy-two (72) hours prior notice. If you require special accommodations in responding to this RFP, please contact the individual whose name appears on the front of this document.

UNIFORM CONTRACT TERMS AND CONDITIONS

1. **DEFINITION OF TERMS**

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- A. "*Attachment*" means any item the Solicitation requires the Offeror to submit as part of the Offer.
- B. "*Contract*" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments; and any terms applied by law.
- C. "*Contract Amendment*" means a written document signed by the Director that is issued for the purpose of making changes in the Contract.
- D. "*Contractor*" means any person who has a Contract with the State.
- E. "*Corporation*" means the Arizona Home Foreclosure Prevention Funding Corporation.
- F. "*Days*" means calendar days unless otherwise specified.
- G. "*Department*" means the Arizona Department of Housing.
- H. "*Director*" means the Director of the Arizona Department of Housing, who is also the Executive Director of the Corporation.
- I. "*Exhibit*" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- J. "*Gratuity*" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- K. "*May*" means something that is not mandatory, but is permissible.
- L. "*Offer*" means bid, proposal or quotation.
- M. "*Offeror*" means a vendor who responds to any type of Solicitation.

- N. *"Responsible Coordinator"* means the person duly authorized by the Director to administer the Contract.
- O. *"Shall"* or *"Must"* means a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.
- P. *"Should"* means something that is recommended, but not mandatory. If the Offeror fails to provide recommended information, the ADOH may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.
- Q. *"Solicitation"* means an Invitation for Bids (IFB), a Request for Proposals (RFP), or a Request for Qualifications (RFQ).
- R. *"Solicitation Amendment"* means a written document that is authorized by the Director and issued for the purpose of making changes to the Solicitation.
- S. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- T. *"State"* means the State of Arizona or a constituent Department, Commission, or other agency of the State.

2. CONTRACT INTERPRETATION

- A. *Arizona Law.* The laws of the State of Arizona shall govern the Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.
- B. *Arbitration.* The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.
- C. *Implied Contract Terms.* Each provision of law and any terms required by law to be in this Contract are a part of the Contract as if fully stated in it.
- D. *Contract Order of Precedence.* In the event of a conflict in the provisions of the Contract, as accepted by the Department and as they may be amended, the following shall prevail in the order set forth below:
 - 1. Special Terms and Conditions;
 - 2. Uniform Terms and Conditions;
 - 3. Statement or Scope of Work;
 - 4. Specifications;
 - 5. Attachments;
 - 6. Exhibits;
 - 7. Documents referenced or included in the Solicitation.
- E. *Relationship of Parties.* The Contractor under the Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- F. *Severability.* The provisions of the Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- G. *No Parol Evidence.* The Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.
- H. *No Waiver.* Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. **CONTRACT ADMINISTRATION AND OPERATION**

- A. *Availability of Funds.* Every payment obligation of the Corporation under the Contract is conditioned upon the availability of funds allocated for the payment of such obligation. If funds are not allocated and available for the continuance of the Contract, the Contract may be terminated by the Corporation or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to the Corporation, or any other agency of the State of Arizona in the event this provision is exercised, and neither the Corporation nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
- B. *Conflicts of Interest.* The requirements of A.R.S. § 38-511 apply to the Contract. Within three years after execution of the Contract, the State of Arizona or any department or agency of the state (collectively referred to as “the State”) may cancel the Contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, at any time while the Contract or any extension is in effect, an employee or agent of any other party in any capacity or a consultant to any other party with respect to the subject matter of the Contract. A cancellation by the State shall be effective when written notice from the Governor or the chief executive officer or governing body of the state department or agency is received by all other parties to the Contract unless the notice specifies a later time. The cancellation of the Contract by the State shall be effective when written notice is received by all other parties to the Contract unless the notice specifies a later time. In addition to the right to cancel the Contract, the State may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State from any other party to the Contract arising as the result of the Contract.
- C. *Gratuities.* The Corporation may, by written notice, terminate the Contract, in whole or in part, if the Corporation determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the Department for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The Corporation, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- D. *Non-discrimination.* The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
- E. *Compliance with immigration laws.*
- a. Contractor warrants compliance with all Federal and state immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
 - b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and

Contractor may be subject to penalties up to and including termination of the contract.

- c. The State of Arizona retains the legal right to inspect the papers of any employee who works on the contract to ensure that Contractor or its subcontractor, if any, is complying with the warranty under paragraph I (a).
- F. *Records.* Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records (“records”) relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- G. *Audit.* Pursuant to ARS § 35-214, at any time during the term of the Contract and five (5) years thereafter, the Contractor’s or any subcontractor’s books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- H. *Status of Consultant.* The chosen Offeror shall not be considered an employee of the ADOH or the State of Arizona, but shall be considered as Contractors to the ADOH and will be required to enter into a written agreement with ADOH.
- I. *Notices.* Notices to the Contractor required by the Contract shall be made by the Department to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the Corporation or Department required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. The Responsible Coordinator and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice and an amendment to the Contract shall not be necessary.
- J. *Advertising and Promotion of Contract.* The Contractor shall not advertise or publish information for commercial benefit concerning the Contract without the prior written approval of the Responsible Coordinator.
- K. *Suspension or Debarment.* The Corporation may, by written notice to the Contractor, immediately terminate the Contract if the Corporation or Department determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

4. COSTS AND PAYMENTS

- A. *Payments.* Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice to the Department for payment from the Corporation within thirty (30) days.
- B. *Applicable Taxes.*
 - 1. *Payment of Taxes by the Department.* The Department shall pay only the rate and/or amount of taxes identified in the Offer and in any resulting Contract.
 - 2. *State and Local Transaction Privilege Taxes.* The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.
 - 3. *Tax Indemnification.* Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the

Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4. IRS W9 Form. In order to receive payment under any resulting Contract, Contractor shall have a current IRS W9 Form on file with the Corporation.
5. Availability of Funds. Funds may not presently be available for performance under the Contract. No legal liability on the part of the Corporation or the State for any payment may arise under the Contract until funds are made available for performance of the Contract. The Corporation shall make reasonable efforts to secure such funds.

5. CONTRACT CHANGES

- A. *Amendments.* The Contract is issued under the authority of the Director. The Contract may be modified only through a Contract Amendment within the scope of the Contract unless otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized Department employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under the Contract based on those changes.
- B. *Subcontracts.* The Contractor shall not enter into any Subcontract under the Contract without the advance written approval of the Responsible Coordinator. The Subcontract shall incorporate by reference the terms and conditions of the Contract.
- C. *Assignment and Delegation.* The Contractor shall not assign any right nor delegate any duty under the Contract without the prior written approval of the Director. The Department shall not unreasonably withhold approval.

RISK AND LIABILITY

- A. *Risk of Loss.* The Contractor shall bear all loss of conforming material covered under the Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- B. *General Indemnification.* To the extent permitted by A.R.S. § 41-621 and § 35-154, the State of Arizona shall be indemnified and held harmless by the Contractor for its vicarious liability as a result of entering into the Contract. Each party to the Contract is responsible for its own negligence.
- C. *Indemnification - Patent and Copyright.* To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under the Contract. The Department shall reasonably notify the Contractor of any claim for which it may be liable under the paragraph.
- D. *Force Majeure.*
 1. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under the Contract if and to the extent that such party's performance of the Contract is prevented by reason of force majeure. The

term “*force majeure*” means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

2. Force Majeure shall not include the following occurrences:
 - a) Late delivery of equipment or materials caused by congestion at a manufacturer’s plant or elsewhere, or an oversold condition of the market;
 - b) Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with the force majeure term and condition; or
 - c) inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to the article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with the Contract.
4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

E. *Third Party Antitrust Violations.* The Contractor assigns to the Corporation any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of the Contract.

6. WARRANTIES

- A. *Liens.* The Contractor warrants that the materials supplied under the Contract are free of liens.
- B. *Quality.* Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the Department of the materials, they shall be:
 1. Of a quality to pass without objection in the trade under the Contract description;
 2. Fit for the intended purposes for which the materials are used;
 3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
 4. Adequately contained, packaged and marked as the Contract may require; and
 5. Conform to the written promises or affirmations of fact made by the Contractor.

- C. *Fitness.* The Contractor warrants that any material supplied to the Department shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- D. *Inspection/Testing.* The warranties set forth in subparagraphs A through C of this paragraph are not affected by inspection or testing of or payment for the materials by the Department.
- E. *Exclusions.* Except as otherwise set forth in the Contract, there are no express or implied warranties of merchantability or fitness.
- F. *Compliance With Applicable Laws.* The materials and services supplied under the Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- G. *Survival of Rights and Obligations after Contract Expiration or Termination.*
 - 1. *Contractor's Representations and Warranties.* All representations and warranties made by the Contractor under the Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
 - 2. *Purchase Orders.* The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Responsible Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of the Contract.

7. CORPORATION'S CONTRACTUAL REMEDIES

- A. *Right to Assurance.* If the Corporation in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under the Contract, the Responsible Coordinator may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the Corporation's option, be the basis for terminating the Contract under the Uniform Terms and Conditions.
- B. *Stop Work Order.*
 - 1. The Corporation may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by the Contract for a period of ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
 - 2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Responsible Coordinator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- C. *Non-exclusive Remedies.* The rights and the remedies of the Corporation under the Contract are not exclusive.

- D. *Nonconforming Tender.* Materials supplied under the Contract shall fully comply with the Contract. The delivery of materials or a portion of the materials in an installment that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials, the Corporation may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- E. *Right of Offset.* The Corporation shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the Department, or damages assessed by the Department concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

8. CONTRACT TERMINATION

- A. *Termination for Convenience.* The Corporation reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the Corporation without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the Corporation. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the Corporation. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles set forth in the Code of Federal Regulations, 48 C.F.R. Chapter 1, Subchapter e, Part 31 (October 1, 1991) – excluding later amendments and editions – are incorporated herein by this reference and shall be used to determine the allow ability of incurred costs for the purpose of reimbursing costs under any provisions of the Contract that provide for reimbursement of costs.
- B. *Termination for Default.*
 - 1. In addition to the rights reserved in the Uniform Terms and Conditions, the Corporation reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Responsible Coordinator shall provide written notice of the termination and the reasons for it to the Contractor.
 - 2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the Corporation on demand.
 - 3. The Corporation may, upon termination of the Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under the Contract. The Contractor shall be liable to the Corporation for any excess costs incurred by the Corporation in procuring materials or services in substitution for those due from the Contractor.
- C. *Continuation of Performance Through Termination.* The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

SPECIAL INSTRUCTIONS TO OFFERORS

1. OFFEROR'S CONTACTS

- A. All questions regarding this Request for Proposal, including technical specifications, proposal process, etc., must be directed to Lori Moreno, Procurement Officer, at (602) 771-1061.
- B. Offerors may not contact any other employees of ADOH or Board Members of the Corporation concerning this procurement while the proposal and evaluation are in process.

2. EVALUATION CRITERIA

Evaluation criteria are listed in relative order of importance. The award will be made to the responsible Offeror(s), whose proposal is determined to be most advantageous to ADOH based upon the following criteria:

Experience/Reliability/Expertise	70%
Method of Approach/Oversight	30%

3. PROPOSAL FORMAT

One original and three copies of each proposal should be submitted on the forms and in the format specified in the RFQ. The original copy should be clearly labeled "Original." The material should be in sequence and related to the RFQ. ADOH will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFQ. Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal. The proposal should include at least the following information:

- A. Experience and Reliability of the Offeror
 - 1. Experience and reliability of the Offeror or Offeror's organization is considered in the evaluation process. Therefore, the Offeror is advised to submit any information that documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFQ.
 - 2. Information on the Offeror's related experience. This should include specific information on the type of services provided and on the dates of performance.
 - 3. A list of references. References should be verifiable and should be able to comment on the Offeror's related experience. The Offeror should submit three (3) similar type professional service references.
 - 4. The proposal may include any additional information that reflects on the Offeror's ability to perform the required services.
- B. Expertise and Reliability of Offeror's Key Personnel
 - 1. The Offeror should provide an organizational chart showing the staffing and lines of authority for any key personnel to be used in the project.
 - 2. The Offeror should provide a resume and data related to previous work assignments as they relate to this RFQ for any key personnel to be assigned to the project.
 - 3. The Offeror should reflect the relationship between specific key personnel for which resumes have been submitted and the specific tasks or assignments proposed in the method to accomplish the Scope of Work.

- C. Method of Approach/Oversight
1. The Offeror should present a proposed method for satisfying the requirements of the Scope of Work as specified herein, detailing the Offeror's oversight of processes and personnel to ensure quality delivery of counseling and financial assistance services outlined in the Scope of Work.
 2. The Offeror may utilize a written narrative, or any other printed technique to demonstrate his/her ability to satisfy the Scope of Work. The narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The usage of technical language should be minimized and used only to describe a technical process.

DEADLINE

Submissions may be submitted as long as this RFQ is posted on the agency website.

Responses should be mailed or hand delivered, and addressed to:

Lori Moreno
Procurement Officer
Arizona Department of Housing
1110 West Washington, Suite 310
Phoenix, Arizona 85007

General questions may be directed to Ms. Moreno at (602) 771-1061.

Arizona Home Foreclosure Prevention Funding Corporation/Arizona Department of Housing

General Information Sheet

Contact Person: _____

Title: _____

Firm Name: _____

Street Address: _____

City/State/Zip: _____

Telephone: () _____

Facsimile: () _____

E-mail Address: _____

Required Attachments:

1. Cover letter highlighting qualifications and experience, and details addressing Offeror's ability to respond to all requirements outlined in this document.
2. General Information Sheet
3. Certification Form
4. Experience and Reliability of the Firm and Offeror's Key Personnel Attachment(s) – For instructions see 3A under *Special Instructions to Offerors*.
5. Method of Approach Attachment – For instructions see 3B under *Special Instructions to Offerors*.

CERTIFICATION FORM

TO THE STATE OF ARIZONA:

The undersigned hereby offers and agrees to furnish the service in compliance with all terms, conditions, and specifications and amendments in the Proposal and any written exceptions in the offer. Signature certifies understanding and compliance with the State of Arizona Uniform Terms and Conditions, as well as the following:

- A. *Non-collusion, Employment, and Services.* By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
 - 1. It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
 - 2. It does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable federal, state and local laws and executive orders regarding employment.
- B. *Disclosure.* If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
- C. *Disqualification.* The Offer of an Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall be rejected.

Firm Name

Address

City

State

Zip

The Offeror has caused this document to be duly executed as of this ___ day of _____, 20__.

Offeror's Authorized Signature