

**THIRD AMENDMENT  
TO CONTRACT NUMBER 2014-02-025-Q-002**

THIS THIRD AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-02-025-Q-002 is entered into and effective as of June 23, 2019, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and HAWKINS DELAFIELD & WOOD LLP ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-02-025-Q-002, dated June 23, 2014, ("Contract") wherein Service Provider agreed to provide or perform arbitrage rebate services pursuant to RFQ 2014-02. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. The initial term of the Contract was for three years, beginning June 23, 2014, and ending June 22, 2017.
- C. Section 3 of the Contract provides that the Contract may be renewed for three, one-year terms.
- D. Florida Housing and Service Provider wish to renew the Contract for the third one-year renewal term, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date: Recitals. Upon its execution by both parties, this Amendment shall be effective as of June 23, 2019. The above recitals are true and correct and form a part of this Amendment.

B. Renewal. The Contract is hereby renewed for the third one-year renewal term, beginning June 23, 2019, and ending June 22, 2020. Subject to any previous amendments or modifications and except as otherwise provided in this Amendment, the Contract shall stand renewed upon its same terms and conditions.

C. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

IN WITNESS WHEREOF, the Parties have executed this THIRD AMENDMENT to Contract Number 2014-02-025-Q-002, by a duly authorized representative, effective as of June 23, 2019.

HAWKINS DELAFIELD & WOOD LLP

By: 

Name/Title: Kam Wong, Partner

Date: March 25, 2019

FEIN: 13-5513990

FLORIDA HOUSING FINANCE CORPORATION

By: 

Name/Title: Hugh R. Brown / General Counsel

Date: 4-10-19

**SECOND AMENDMENT  
TO CONTRACT NUMBER 2014-02-025-Q-002**

THIS SECOND AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-02-025-Q-002 is entered into and effective as of June 23, 2018, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and HAWKINS DELAFIELD & WOOD LLP ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-02-025-Q-002, dated June 23, 2014, ("Contract") wherein Service Provider agreed to provide or perform arbitrage rebate services pursuant to RFQ 2014-02. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. The initial term of the Contract was for three years, beginning June 23, 2014, and ending June 22, 2017.
- C. Section 3 of the Contract provides that the Contract may be renewed for three, one-year terms.
- D. Florida Housing and Service Provider wish to renew the Contract for the second one-year renewal term, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of June 23, 2018. The above recitals are true and correct and form a part of this Amendment.

B. Renewal. The Contract is hereby renewed for the second one-year renewal term, beginning June 23, 2018, and ending June 22, 2019. Subject to any previous amendments or modifications and except as otherwise provided in this Amendment, the Contract shall stand renewed upon its same terms and conditions.

C. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

IN WITNESS WHEREOF, the Parties have executed this SECOND AMENDMENT to Contract Number 2014-02-025-Q-002, by a duly authorized representative, effective as of June 23, 2018.

HAWKINS DELAFIELD & WOOD LLP

By: 

Name/Title: Kam Wong, Partner

Date: 12-11-2017

FEIN: 13-5513990

FLORIDA HOUSING FINANCE CORPORATION

By: 

Name/Title: Hugh R. Brown

Date: DEC 12 2017

**General Counsel**

**FIRST AMENDMENT  
TO CONTRACT NUMBER 2014-02-025-Q-002**

THIS FIRST AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-02-025-Q-002 is entered into and effective as of February 3, 2017, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and HAWKINS DELAFIELD & WOOD LLP ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-02-025-Q-002, dated June 23, 2014, ("Contract") wherein Service Provider agreed to provide or perform arbitrage rebate services pursuant to RFQ 2014-02. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. The initial term of the Contract was for three years, beginning June 23, 2014, and ending June 22, 2017.
- C. Section 3 of the Contract provides that the Contract may be renewed for three, one-year terms.
- D. Florida Housing and Service Provider wish to renew the Contract for the first one-year renewal term, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of the Effective Date. The above recitals are true and correct and form a part of this Amendment.

B. Renewal. The Contract is hereby renewed for the first one-year renewal term, beginning June 23, 2017, and ending June 22, 2018. Subject to any previous amendments or modifications and except as otherwise provided in this Amendment, the Contract shall stand renewed upon its same terms and conditions.

C. Amendments.

- 1. The Contract is amended by deleting Section 11(a), Public Records, in its entirety and replacing with the following:

Files Subject to Florida's Public Records Law: Any file, report, record, document, paper, letter, or other material received, generated, maintained or sent by the Service

Provider in connection with this Contract is subject to the provisions of Section 119.01-.15, Fla. Stat., as may be amended from time to time (Florida's Public Records Law). The Service Provider represents and acknowledges that it has read and understands Florida's Public Records Law and agrees to comply with Florida's Public Records Law.

Pursuant to Section 119.0701(2)(b), Fla. Stat., the Respondent, if awarded a contract under this RFQ, will be required to comply with public records laws, specifically to:

- a. Keep and maintain public records required by the public agency to perform the service.
- b. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract. If the contractor does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when the Service Provider is acting on behalf of Florida Housing.

**If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the Corporation Clerk at:**

**Corporation Clerk  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Phone: 850.488.4197  
E-mail: Corporation.Clerk@floridahousing.org**

2. The Contract is amended further by creating Item (f). under Section 12, Other Provisions:

(f) The Contractor understands and agrees to cooperate with any audits conducted in accordance with the provisions set forth in Section 20.055(5), Fla. Stat.

D. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the Parties have executed this FIRST AMENDMENT to Contract Number 2014-02-025-Q-002, by a duly authorized representative, effective as of February 3, 2017.

HAWKINS DELAFIELD & WOOD LLP

By: 

Name/Title: Kam Work, Partner

Date: 02/06/2017

FEIN: 13-5513990

FLORIDA HOUSING FINANCE CORPORATION

By: 

Name/Title: Hugh R. Brown, General Counsel

Date: 2/14/2017



**CONTRACT FOR  
ARBITRAGE REBATE SERVICES BETWEEN  
FLORIDA HOUSING FINANCE CORPORATION  
AND  
HAWKINS DELAFIELD & WOOD LLP**

This Contract for Arbitrage Rebate Services, 2014-02-025-Q-002 (“Contract”) is entered into by and between the FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”), a public corporation and a public body corporate and politic, with headquarters located at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301, and HAWKINS DELAFIELD & WOOD LLP (“Arbitrageur”), located at One Chase Manhattan Plaza, New York, New York 10005. Upon execution by both parties, this Contract shall become effective as of the date the last party signs (Effective Date).

**RECITALS**

- A. The Arbitrageur represents that it is fully qualified and possesses the requisite skills, knowledge, qualifications and experience to provide Arbitrage Rebate Services identified herein and offers to perform those services described in Exhibit A, Request for Qualifications (RFQ) 2014-02 attached hereto and incorporated herein.
- B. Florida Housing has a need for such services and does hereby accept the offer of the Arbitrageur upon the terms and conditions outlined in this Contract.
- C. Florida Housing has the authority pursuant to Florida Law to direct disbursement of funds for compensation to the Arbitrageur under the terms and provisions of this Contract.

**AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **ATTACHMENTS**

This Contract has the following attachments, which are incorporated herein:

Exhibit A, RFQ 2014-02  
Exhibit B, Fees/Costs Schedule

2. **ENGAGEMENT OF THE ARBITRAGEUR**

The Arbitrageur agrees to provide Arbitrage Rebate Services in accordance with the terms and conditions hereinafter set forth. The Arbitrageur agrees to perform the services set forth in Exhibit A, and as otherwise stated in this Contract. The Arbitrageur understands and agrees that all services under this Contract are to be performed solely by

the Arbitrageur, and may not be subcontracted or assigned without the prior written approval and consent of Florida Housing.

3. TERM OF CONTRACT

The initial term of this Contract shall be for three (3) years from the Effective Date. If the parties mutually agree in writing, the Contract may be renewed three times. Each renewal shall be for an additional one (1) year period. Renewals are at the discretion of Florida Housing, and shall be contingent upon satisfactory performance evaluations by Florida Housing.

4. MODIFICATION OF CONTRACT

Either party may request a modification of the provisions of this Contract. Modifications that are mutually agreed upon shall be valid only when reduced to writing, signed by the parties and attached to this Contract.

5. INVOICES

The Arbitrageur shall submit invoices to the program contact person in Section 10 of this Contract. Each invoice for fees shall be in a format that is clearly itemized so that the invoice states the specific services performed and when the services were performed. Payment of an undisputed invoice shall be made within a reasonable period of time not to exceed 30 days after receipt of the invoice. If the Arbitrageur is found to be in non-compliance with Florida laws, federal laws, Florida Housing rules or Florida Housing policies governing its duties hereunder, or fails to perform its duties hereunder, any compensation received in connection with this Contract shall be subject to forfeiture to Florida Housing.

6. FEES/COSTS

The Arbitrageur shall be compensated as described in the Fees/Costs Schedule attached hereto as Exhibit B.

7. LIABILITY: INDEPENDENT CONTRACTOR; COMPLIANCE WITH LAWS

(a) Florida Housing shall not be deemed to have assumed any liability for the acts, omissions, or negligence of the Arbitrageur, its agents, its servants, or employees, and the Arbitrageur specifically accepts responsibility for its acts, omissions or negligence and for the acts, omissions or negligence of its agents, servants or employees, and shall defend and hold Florida Housing harmless from and against the claims of any party arising out of or claimed to arise out of any such acts, omissions, or negligence.

(b) This Contract is executed on behalf of Florida Housing by the signatory only in his or her designated capacity as representative and on behalf of Florida Housing. Such individual shall neither have nor incur any individual or personal responsibility or

liability under this Contract as a result of such execution.

(c) Nothing herein shall be construed as a waiver of sovereign immunity by Florida Housing; it being the intent to reserve all such rights and immunities to the fullest extent of the law.

(d) The Arbitrageur, together with its agents, suppliers, subcontractors, officers, and employees, shall have and always retain under this Contract the legal status of an independent contractor, and in no manner shall they be deemed employees of Florida Housing or deemed to be entitled to any benefits associated with such employment. During the term of this Contract, the Arbitrageur shall maintain at its sole expense those benefits to which its employees would otherwise be entitled to by law. The Arbitrageur remains responsible for all applicable federal, state, and local taxes, and all FICA contributions.

(e) The Arbitrageur shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state and local agencies having jurisdiction and authority. In addition, and by way of non-exhaustive example, the Arbitrageur shall comply with Florida Housing policies while on Florida Housing premises and in the conduct of its business with Florida Housing personnel.

(f) The Arbitrageur specifically accepts responsibility for payment of all taxes, assessments, or contributions that may be required to be paid to any unit of government as a result of the payments being paid to or by the Arbitrageur, if any, in conjunction with the services rendered pursuant to this Contract. At no time shall the Arbitrageur make any commitments for or incur any charges or expenses for, or in the name of, Florida Housing.

(g) The Arbitrageur shall not be relieved of liability to Florida Housing for damages sustained by Florida Housing by virtue of any termination or breach of this Contract by the Arbitrageur.

## 8. DEFAULT AND REMEDIES

(a) If any of the events listed in subparagraph (b) of this section occur, all obligations on the part of Florida Housing to continue doing business with the Arbitrageur or assign any future transaction to the Arbitrageur shall, if Florida Housing so elects, terminate and Florida Housing may, at its option, exercise any of its remedies set forth herein, or as otherwise provided by law. However, Florida Housing may continue doing business with the Arbitrageur as a participant after the happening of any event listed in subparagraph (b) of this section without waiving the right to exercise such remedies, without constituting a course of dealing, and without becoming liable to include the Arbitrageur in the transaction or any future transaction.

(b) The Events of Default shall include, but not be limited to, the following:

(i) If any report, information, or representation provided by the Arbitrageur in this Contract is inaccurate, false or misleading in any respect;

(ii) If any warranty or representation made by the Arbitrageur in this Contract or any other outstanding agreement with Florida Housing is deemed by Florida Housing to be inaccurate, false or misleading in any respect;

(iii) If the Arbitrageur fails to keep, observe, or perform any of the terms or covenants contained in this Contract, or is unable or unwilling to meet its obligations as defined in this Contract;

(iv) If, in the sole discretion of Florida Housing, the Arbitrageur has failed to perform or complete any of the services identified in the attachments;

(v) If the Arbitrageur has not complied with all Florida laws, federal laws, Florida Housing rules or Florida Housing policies applicable to the work;

(vi) If the Arbitrageur has discriminated on the grounds of race, color, religion, sex, national origin, or disability in performing any service identified in the attachments;

(vii) If the Arbitrageur does not comply with the terms and conditions set forth in Section 420.512(5), Fla. Stat.;

(viii) If the Arbitrageur commits fraud in the performance of its obligations under this Contract; or

(ix) If the Arbitrageur refuses to permit public access to any document, paper, letter, computer files, or other material subject to disclosure under Florida's Public Records Law.

(c) Upon the happening of any Event of Default listed in subparagraph (b) above, Florida Housing will provide written notice of the Default detailing the grounds that constitute the Event of Default (Notice of Default), delivered by courier service or electronic mail to the address set forth in Section 10 herein.

(d) Upon the happening of any Event of Default listed in subparagraph (b) above, Florida Housing may provide the Arbitrageur a reasonable period of time to cure the Event of Default (Cure Period). If Florida Housing provides a Cure Period, Florida Housing will notify the Arbitrageur of the length of the Cure Period in the Notice of Default.

(e) If Florida Housing provides a Cure Period and if the Arbitrageur is unable or unwilling to cure the Event of Default within the Cure Period, Florida Housing may exercise any remedy permitted by law. The pursuit of any one of the following remedies shall not preclude Florida Housing from pursuing any other remedies contained herein or

otherwise provided at law or in equity. The remedies include, but are not limited to the following:

(i) Florida Housing may terminate the Contract on the tenth (10<sup>th</sup>) day after the Arbitrageur receives the Notice of Default or upon the conclusion of any applicable Cure Period, whichever is later;

(ii) Florida Housing may commence an appropriate legal or equitable action to enforce performance of the terms and conditions of this Contract;

(iii) Florida Housing may exercise any corrective or remedial actions including, but not limited to, requesting additional information from the Arbitrageur to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Arbitrageur to suspend, discontinue or refrain from incurring fees or costs for any activities in question or requiring the Arbitrageur to reimburse Florida Housing for the amount of costs incurred; or

(iv) Florida Housing may exercise any other rights or remedies that may be otherwise available under law.

#### 9. TERMINATION

(a) Florida Housing may terminate the contract, without cause, at any time upon ten (10) days written notice delivered by courier service or electronic mail to the Arbitrageur at the address set forth in Section 10 herein.

(b) The Arbitrageur may terminate this Contract, without cause, at any time upon ninety (90) days written notice delivered by courier service or electronic mail to Florida Housing at the physical or electronic address, as applicable, set forth in Section 10 herein. The Arbitrageur shall be responsible for all costs arising from the resignation of the Arbitrageur and the costs associated with the appointment of and transition to a successor Arbitrageur.

#### 10. ADMINISTRATION OF CONTRACT

(a) The Florida Housing contract manager for this Contract is:

Contracts Manager  
Florida Housing Finance Corporation  
227 North Bronough St., Suite 5000  
Tallahassee, Florida 32301-1329  
Phone: 850.488.4197  
Fax: 850.414.6548  
E-mail: [Contracts.Manager@floridahousing.org](mailto:Contracts.Manager@floridahousing.org)

**or the designated successor.**

(b) The Florida Housing finance contact for this Contract is:

Melanie Weathers  
Bond Administrator  
Florida Housing Finance Corporation  
227 North Bronough St., Suite 5000  
Tallahassee, Florida 32301-1329  
Phone: 850.488.4197  
Fax: 850.414.5479  
E-mail: melanie.weathers@floridahousing.org  
**or the designated successor.**

(c) The Arbitrageur contract manager for this Contract is:

Takashi Iwata  
FAS Director  
HAWKINS DELAFIELD & WOOD LLP  
One Chase Manhattan Plaza  
New York, New York 10005  
Office: 212.820.9432  
Cell: 917.576.6255  
Fax: 212.820.9310  
E-mail: tiwata@hawkins.com  
**or the designated successor.**

(d) All written approvals referenced in this Contract shall be obtained from the parties' contract manager or their respective designees.

(e) All notices shall be given to the parties' contract manager.

**11. PUBLIC RECORDS; CONFIDENTIALITY; COPYRIGHT, PATENT, TRADEMARK; FILES**

(a) Public Records

Files Subject to Florida's Public Records Law: Any file, report, record, document, paper, letter, or other material received, generated, maintained or sent by the Arbitrageur in connection with this Contract is subject to the provisions of Section 119.01-.15, Fla. Stat., as may be amended from time to time (Florida's Public Records Law). The Arbitrageur represents and acknowledges that it has read and understands Florida's Public Records Law and agrees to comply with Florida's Public Records Law.

Pursuant to Section 119.0701(2), Fla. Stat., the Arbitrageur is required “to comply with public records laws, specifically to:

(i) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(ii) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(iv) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.”

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when the Arbitrageur is acting on behalf of Florida Housing.

(b) Confidentiality

(i) If the Arbitrageur asserts that any information or materials intended to be delivered or provided under this Contract constitute a trade secret, or are otherwise confidential or exempt from the public records disclosure requirements of Florida’s Public Records Law, such assertion must be made prior to submitting them to Florida Housing.

(ii) It is the Arbitrageur’s obligation and responsibility to maintain the secrecy of trade secrets and the confidentiality of other confidential information by adequately marking such materials as confidential or exempt before forwarding such information or materials to Florida Housing.

(iii) In the case of work product furnished to Florida Housing pursuant to this Contract that is confidential, the Arbitrageur will treat such materials as confidential and will not reveal or discuss such materials or any other information learned as a result of this Contract with any other person or entity, except as authorized or directed by Florida Housing.

(iv) Working papers, copies, internal documents, procedures, methods and related materials considered confidential and/or proprietary shall be treated as confidential and/or proprietary and shall not be revealed or discussed with any other person or entity, except as authorized or directed by Florida Housing. All such records and materials will remain the property of Florida Housing.

(v) If the Arbitrageur is required to disclose or publish the existence or terms of transactions under this Contract pursuant to Florida's Public Records Law, then the Arbitrageur shall notify Florida Housing in writing of such disclosure within two (2) days after receipt of the Public Records request.

(c) Copyright, Patent and Trademark

(i) If the Arbitrageur brings to the performance of this Contract a pre-existing copyright, patent or trademark, the Arbitrageur shall retain all rights and entitlements to that pre-existing copyright, patent or trademark unless the Contract provides otherwise.

(ii) If any discovery or invention arises or is developed in the course of or as a direct result of work or services performed under this Contract, the Arbitrageur shall refer the discovery or invention to Florida Housing for a determination whether patent protection will be sought in the name of Florida Housing. Any and all patent rights accruing under or in connection with the performance of this Contract are hereby reserved to Florida Housing. In the event that any books, manuals, films, or other copyrightable material are produced, the Arbitrageur shall notify Florida Housing in writing. Any and all copyrights or trademarks created by or in direct connection with the performance under this Contract are hereby reserved to Florida Housing.

(iii) All subcontracts or other arrangements entered into, by the Arbitrageur, with prior written approval and consent of Florida Housing, for the purpose of developing or procuring copyrightable materials (e.g. audiovisuals, computer programs, software, publications, curricula, research materials or training materials, etc.) shall specifically reference and reserve Florida Housing's exclusive rights to use and exploit copyrights and licenses to the extent permitted by copyright law and Florida Statutes.

(d) Files

(i) Contents of the Files: The Arbitrageur shall maintain files containing documentation to verify all compensation to the Arbitrageur in connection with this Contract, as well as reports, records, documents, papers, letters, computer files, or other material received, generated, maintained or filed by the Arbitrageur in connection with this Contract. The Arbitrageur shall also keep files, records, computer files, and reports that reflect any compensation it receives or will receive in connection with this Contract.



(ii) **Retaining the Files:** The Arbitrageur shall maintain these files for five (5) years after the fiscal year in which the files become inactive, except that, if any litigation, claim or audit is commenced with respect to the transactions documented by such files before the end of the aforementioned five (5) year period and extends beyond the expiration of the five (5) year period, these files will be retained until all litigation, claims, or audit findings involving the files have been resolved.

(iii) **Access to the Files:** Upon reasonable notice, the Arbitrageur and its employees shall allow Florida Housing or its agent(s) access to its files during normal business hours, 9:00 a.m. to 5:00 p.m., Monday through Friday, provided such day is not a holiday.

(iv) **Return of the Files:** In the event this Contract is terminated, all finished or unfinished documents, data, studies, computer files, correspondence, and other products prepared by or for the Arbitrageur under this Contract shall be submitted to Florida Housing within fifteen (15) days of such termination at the expense of the Arbitrageur.

## 12. OTHER PROVISIONS

(a) This Contract shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Contract shall lie in Leon County.

(b) No waiver by Florida Housing of any right or remedy granted hereunder or failure to insist on strict performance by the Arbitrageur shall affect or extend or act as a waiver of any other right or remedy of Florida Housing hereunder, or affect the subsequent exercise of the same right or remedy by Florida Housing for any further or subsequent default by the Arbitrageur. A waiver or release with reference to any one event shall not be construed as continuing or as constituting a course of dealing.

(c) Any power of approval or disapproval granted to Florida Housing under the terms of this Contract shall survive the terms and life of this Contract as a whole.

(d) The Contract may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Arbitrageur agrees that so long as it shall continue to serve in the capacity contemplated under the terms of this Contract, it will not dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it; provided, however, that the Arbitrageur may, without violating the covenant contained in this section consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or sell or otherwise transfer to another such

entity all or substantially all of its assets as an entirety and thereafter dissolve, if the surviving, resulting or transferee entity, as the case may be, shall have a net worth equal to or greater than the net worth of the Arbitrageur immediately preceding any such merger, consolidation or sale of assets, shall be qualified under the laws of the state to do business in the state, shall be qualified under the laws and have all necessary approvals, as evidenced to the satisfaction of Florida Housing, required of the Arbitrageur to perform Arbitrageur's duties under this Contract, and shall assume in writing all of the obligations of the Arbitrageur under this Contract at no additional cost or expense to Florida Housing, in which event Florida Housing shall release the Arbitrageur in writing, concurrently with and contingent upon such assumptions from all obligations so assumed. No merger by or sale of the assets of the Arbitrageur under this section shall occur without reasonable prior notice to Florida Housing sufficient to allow Florida Housing to present any objections to the proposed merger or sale of assets in writing to the Arbitrageur except for mergers with or sales to entities the ownership and management of which is substantially identical to that of the Arbitrageur. Any entity into which, pursuant to the terms hereof and Section 11 of this Contract, the Arbitrageur may be merged or consolidated, or any entity resulting from any merger, conversion or consolidation to which the Arbitrageur shall be a party, pursuant to the terms heretofore, any entity succeeding to the business of the Arbitrageur, pursuant to the terms hereof, shall be the successor of the Arbitrageur hereunder without the execution or filing of any document or instrument, or any further act on the part of any of the parties hereto.

13. LOBBYING PROHIBITION

No funds compensation or other resources received in connection with this Contract may be used directly or indirectly to influence legislation or any other official action by the Florida or Federal Legislature or any state or federal agency. The Arbitrageur further acknowledges that it has not retained the services of any lobbyist or consultant to assist in the procurement and negotiation of this Contract.

14. LEGAL AUTHORIZATION

The Arbitrageur certifies with respect to this Contract that it possesses the legal authority to enter into this Contract and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Contract with all covenants and assurances contained herein. The Arbitrageur also certifies that the undersigned possesses the authority to legally execute and bind the Arbitrageur to the terms of this Contract.

15. PUBLIC ENTITY CRIME

A person or affiliate, who has been placed on the convicted vendor list, following a conviction for a public entity crime, may not:

- submit a bid on a contract to provide any goods or services to a public entity;

- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and,
- transact business with any public entity in excess of the threshold amount provided in s. 287.017, Fla. Stat., for CATEGORY TWO: \$35,000, for a period of 36 months from the date of being placed on the convicted vendor list. Any contract in violation of this provision shall be null and void.

16. CONFLICTS OF INTEREST

- (a) Pursuant to Section 420.512(5), Fla. Stat.:

Service providers shall comply with the following standards of conduct as a condition of eligibility to be considered or retained to provide services. For purposes of paragraphs (a), (b), and (c) only, the term 'service provider' means and is limited to a law firm, an investment bank, or a credit underwriter, and the agents, officers, principals, and professional employees of the service provider.

(a) A service provider may not make contributions in any amounts, directly or indirectly, for or on behalf of candidates for Governor, nor shall any service provider make a contribution in excess of \$100 to any candidate for a member of the State Board of Administration other than the Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(b) The service provider shall not participate in fundraising activities for or on behalf of candidates for Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(c) Service providers shall provide to the corporation a statement that the service provider has not contributed to candidates for Governor or contributed in excess of the amounts allowed by this section for a member of the State Board of Administration or engaged in fundraising activities for or on behalf of candidates for Governor in Florida since the effective date of this section or during the 24 months preceding the service provider's application to provide services to the corporation, whichever period is shorter.

(d) The service provider may not engage in prohibited business solicitation communications with officers, members, or covered employees of the corporation.

(e) If a service provider is in doubt as to whether its activities, or the activities of its principals, agents, or employees, violate the provisions of this section, it may request a declaratory statement in accordance with the applicable rule and s. 120.565, Fla. Stat.

(f) If the corporation determines that a service provider has failed to meet the provisions of this section, it shall consider the magnitude of the violation and whether there has been a pattern of violations in determining whether to terminate or decline to enter into contracts with the service provider.

(b) Section 420.503(32), Fla. Stat., states:

Prohibited business solicitation communication' means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

(a) A verbal communication made on the record during a public meeting;

(b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;

(c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.

(d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as a result of a competitive selection process, so long as the communication does not relate to solicitation of business.

(e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.

(c) By executing this contract, the Arbitrageur certifies that it shall comply with, and is currently in compliance with, Section 420.512(5), Fla. Stat., as amended.

(d) In addition to the conflict of interest rules imposed by the Florida Statutes, should the Arbitrageur become aware of any actual, apparent, or potential conflict of interest or should any such actual, apparent, or potential conflict of interest come into being subsequent to the effective date of this Contract and prior to the conclusion of the Contract, the Arbitrageur will provide notification to Florida Housing, through first class certified mail, return receipt requested (Notice of Conflict of Interest), to the address and individual set forth in Section 10 herein, within 10 working days. If Florida Housing, in its sole discretion, finds the Arbitrageur to be in non-compliance with this provision,

without prior written consent from Florida Housing's Executive Director, any compensation received in connection with this Contract shall be subject to forfeiture to Florida Housing and all obligations on the part of Florida Housing to continue doing business with the Arbitrageur or assign any future transaction to the Arbitrageur shall, if Florida Housing so elects, terminate.

17. ENTIRE AGREEMENT

This Contract, including any and all attachments, embodies the entire agreement of the parties. There are no other provisions, terms, conditions or obligations between the parties. This Contract supersedes all previous oral or written communications, representations or agreements on this subject.


18. SEVERABILITY

If any provision of this Contract is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict or unenforceability, and shall be deemed severable, but shall not invalidate any other provision of this Contract.

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IN WITNESS WHEREOF, the parties have executed this Contract Number 2014-02-025-Q-001, each through a duly authorized representative, effective on the Effective Date.

HAWKINS DELAFIELD & WOOD, LLP

By: 

Name/Title: Kam Wong, Partner

Date: 6-20-14

FEIN: 13-5513990

FLORIDA HOUSING FINANCE CORPORATION

By: 

Stephen P. Auger, Executive Director

Date: 6/23/14

**EXHIBIT A**

**REQUEST FOR QUALIFICATIONS (RFQ) 2014-02**

**ARBITRAGE REBATE SERVICES**

**for**

**FLORIDA HOUSING FINANCE CORPORATION**

**March 2014**

## **SECTION ONE INTRODUCTION**

Florida Housing Finance Corporation (“Florida Housing”) is soliciting competitive, sealed responses from qualified firms to provide arbitrage rebate analyst services in accordance with the terms and conditions set forth in this Request for Qualifications, and any other term and condition in any contract subsequently awarded. Offerors shall be selected and determined through Florida Housing’s review of each response, considering the factors identified in this Request for Qualifications and any other factors that it considers relevant to serving the best interests of Florida Housing and its mission. Florida Housing expects to select one or more Offerors that propose to provide all of the arbitrage rebate analyst services specified in this Request for Qualifications.

## **SECTION TWO DEFINITIONS**

For purposes of this document, the following terms shall be defined as follows:

“Arbitrage”	Arbitrage occurs when Florida Housing invests its bond proceeds at an interest rate higher than the overall borrowing yield on its bond issue. As it relates to tax-exempt bonds, Arbitrage is the ability to invest proceeds received from the sale of tax-exempt debt in higher-yielding taxable securities.
“Arbitrageur”	The entity providing the arbitrage rebate services described in Section Four of this RFQ.
“Arbitrage Rebate”	Arbitrage Rebate is the payment of Arbitrage earned on the investment bond proceeds to the Internal Revenue Service in accordance with the requirements of Section 148 of the Internal Revenue Code and as defined by U.S. Treasury Department regulations.
“Board”	The Board of Directors of Florida Housing Finance Corporation.
“Committee”	The review committee composed only of employees of Florida Housing that is established pursuant to Rule 67-49.007, Fla. Admin. Code.
“Contract”	The document containing the terms and conditions of this Request for Qualifications and any other



	term and condition that the parties require.
“Contractor”	A person or entity providing the professional services described in Section Four of this RFQ.
“Days”	Calendar days, unless otherwise specified.
“Effective Date”	The date the last party signs the Contract that is awarded as a result of this Request for Qualifications.
“Florida Housing”	Florida Housing Finance Corporation, a public corporation and public body corporate and politic created by Section 420.504, Fla. Stat.
“Interested Party”	A person or entity that obtains a copy of the Request for Qualifications from Florida Housing.
“Non-arbitrage Certificate”	The key tax document for a bond issue which describes the rebate requirements associated with the debt service fund. The Non-arbitrage Certificate is part of the bond transcript.
“Offeror”	Any person or entity who has the capability in all respects to perform fully the requirements contained in this Request for Qualifications, and submits a response to this Request for Qualifications.
“Response”	The written submission by an Offeror to this Request for Qualifications.
“RFQ”	This Request for Qualifications, including all exhibits referenced in this document and all other documents incorporated by reference.
“Staff”	Any employee of Florida Housing, including the Executive Director.
“Trustee”	An organization which provides trustee services for Florida Housing.
“Trust Indenture”	The document by the terms of which an entity issues or guarantees or provides for the issue or guarantee of debt obligations secured by a security interest and in which an entity is appointed as

trustee for the holders of the debt obligation issued, guaranteed or provided for under it.

“Website”

The Florida Housing Finance Corporation website, the URL of which is [www.floridahousing.org](http://www.floridahousing.org).

### **SECTION THREE PROCEDURES AND PROVISIONS**

A. An Offeror must submit an original and three (3) copies of the Response in a sealed envelope marked “RFQ 2014-02.” Each envelope or package containing Responses must clearly state the name of the Offeror. The Response that is the original must be clearly indicated on that Response. An electronic copy of the Response must also be submitted on a CD or flash drive. Florida Housing shall not accept a faxed or e-mailed Response. Florida Housing must receive any Responses on or before 2:00 p.m., Eastern Time, on March 21, 2014. Responses shall be opened at that time.

Della Harrell  
Contracts Manager  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301-1329  
(850) 488-4197  
Fax (850) 488-9809  
Email: [della.harrell@floridahousing.org](mailto:della.harrell@floridahousing.org)  
or the designated successor

B. This RFQ does not commit Florida Housing to award a Contract to any Offeror or to pay any costs incurred in the preparation or mailing of a Response.

C. All services under the Contract awarded are to be performed solely by the Contractor, unless subcontracted or assigned with the prior written approval and consent of Florida Housing.

D. Florida Housing reserves the right to:

1. Waive minor deficiencies and informalities;
2. Accept or reject any or all Responses received as a result of this RFQ;
3. Obtain information concerning any or all Offerors from any source;
4. Request an oral interview before the Board from any or all Offerors;

5. Select for Contract negotiation or for award a Response other than that with the highest score if, in the judgment of Florida Housing, its and the public's best interest shall be served; and
6. Negotiate with the successful Offeror with respect to any additional terms or conditions of the Contract.

E. Any Interested Party may submit any question regarding this RFQ in writing via mail, fax, or e-mail to Della Harrell at the address given in Section Three, paragraph A. All questions are due by 5:00 p.m., Eastern Time, on Wednesday, March 12, 2014. Phone calls shall not be accepted. Florida Housing expects to respond to all questions in writing by 5:00 p.m., Eastern Time, on Friday, March 14, 2014. Florida Housing shall post a copy of all questions received and their answers on Florida Housing's website at <http://www.floridahousing.org/ViewPage.aspx?page=77>. Florida Housing shall also send a copy of those questions and answers in writing to any Interested Party that requests a copy. Florida Housing shall send its answers, by regular U.S. mail, overnight delivery, fax, e-mail or any combination of the above. Only written responses or statements from Della Harrell that are posted on our website shall bind Florida Housing. No other means of communication, whether oral or written, shall be construed as an official response or statement from Florida Housing.

F. Any person who wishes to protest the specifications of this RFQ must file a protest in compliance with Section 120.57(3), Fla. Stat., and Rule Chapter 28-110, Fla. Admin. Code. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

G. The term of the Contract shall be for three years, subject to satisfactory performance at the sole discretion of Florida Housing. If the parties mutually agree in writing, the Contract may be renewed three times. Each renewal shall be for an additional one (1) year period.

H. Florida Housing's award of a Contract to an Offeror does not obligate Florida Housing to assign a *pro rata* portion of work, or any work, to the Offeror for any service contemplated by the Contract.

I. Florida Housing is not required to utilize the services of any selected Contractor and may terminate any selected Contractor without cause and without penalty.

J. Pursuant to Fla. Admin. Code R. 67-49.004, Florida Housing may modify the terms of the RFQ at any point prior to two (2) weeks of the due date for Responses. A notice of such modification shall be posted on Florida Housing's Website and shall be provided to potential Offerors who requested copies of the RFQ.

K. The terms of this RFQ, and any modifications thereto, shall be incorporated into any Contract offered as a result of this RFQ. Failure of a successful

Offeror to accept these obligations in the final Contract may result in cancellation of the award at Florida Housing's sole discretion.

#### **SECTION FOUR SCOPE OF SERVICES**

Florida Housing issues tax-exempt revenue bonds to finance the acquisition and construction of single family and multi-family housing in the State of Florida. In order to ensure the continuation of the tax-exempt status of the bonds, it is necessary that Arbitrage Rebate calculations be performed in accordance with the Internal Revenue Code of 1986, as amended, and as defined by U.S. Treasury Department regulations.

The Arbitrageur shall perform and render services as an independent contractor and not as an agent, representative, or employee of Florida Housing. These services shall be known as "consultant and professional services" and shall include the provision of advice and assistance. The consultant and professional services include but are not limited to:

A. On an annual basis, but no later than 60 days after the end of the computation period, provide to Staff in writing a calculation of Arbitrage Rebate earnings and a determination of the amount of the rebate requirement in accordance with Section 148(f) of the Internal Revenue Code of 1986, as amended, for each series of bonds requiring such calculations.

B. On an annual basis, but no later than 60 days after the end of the computation period, provide an opinion in writing to Staff that such calculations have been performed in accordance with Section 148(f) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated there under. Information needed for such calculations shall be supplied by the Trustee. The Arbitrageur shall compare the calculations supplied by the Trustee with the Guaranteed Investment Contract (GIC) provider statement.

C. Evaluate and make recommendations in writing to Staff on current investment and record keeping practices for those funds and accounts subject to Arbitrage.

D. Apprise Staff in writing of any changes in Arbitrage compliance regulations that may occur during the term of the Contract.

E. Perform all duties required of the Arbitrageur as specified by the Trust Indenture, the Non-arbitrage Certificate, and any other documents governing the applicable bond series (Bond Documents).

F. Prepare the appropriate tax form, currently 8038-T (or equivalent) for the designated Florida Housing signatory, in the event that a rebate payment to the Internal Revenue Service is required. The completed tax form along with the rebate analysis

report must be received by Florida Housing's Bond Administrator no later than 45 days after the end of the 5 year computation period.

G. Consult with Staff to address post-issuance tax compliance concerns.

H. Verify to Staff that the bond issue is subject to the rebate regulations and determine what general and/or elective exceptions are available.

I. Perform the following on the debt yields and excess earnings as defined by U.S. Treasury Department regulations including, but not limited to:

1. Data review and analysis.
2. Compute/verify the allowable yield limit for the issues.
3. Compute/verify the amount of excess earnings, if any, rebatable to the U.S. Treasury.
4. Compute/verify the amount of spend-down penalties payable to the U.S. Treasury under issues applying such provisions.
5. Prepare all necessary Internal Revenue Services forms relating to services provided.
6. Submit final reports to Staff showing the calculation method used, assumptions, conclusions, and any recommendations for changes in record keeping for the services provided.
7. Legally opine to Staff as to the liability due to the U.S. Treasury under any of the Arbitrage regulations. The opinion shall include a statement that the calculation methodology used is consistent with current tax laws and regulations and may be relied upon by Florida Housing in determining liability payments to the U.S. Treasury.

J. Assist Staff, as necessary, in the event of an Internal Revenue Service inquiry, both during and subsequent to the Contract period.

K. Identify and separate accounts for all gross proceeds including those requiring allocation analyses due to circumstances involving transferred proceeds and/or commingled funds.

L. Retain all support documentation for the rebate calculations (hard copy records and computer database) for six years after the retirement or final maturity of the bonds or until any on-going litigation, audit, etc., is resolved, if longer.

M. Perform such other Arbitrage Rebate services and provide advice as requested by Staff.

## **SECTION FIVE CERTIFICATION**

Do not reproduce the language of Section Five in the Response. By inclusion and execution of the statement provided in Section Six, subsection I, of this RFQ, each Offeror certifies that:

A. The Offeror submits this Response without prior understanding, agreement, or connection with any person or entity submitting a separate Response for the same services. However, any agreement with a person or entity with whom the Response is jointly filed and such joint filing is made clear on the face of the Response shall be an exception so long as the Response is in all respects fair and without collusion or fraud.

B. Any material submitted in response to this RFQ is a public record pursuant to Chapter 119, Fla. Stat., and subject to examination upon request, after Florida Housing provides a notice of decision pursuant to Section 120.57(3), Fla. Stat., or within 10 Days after the Response is opened, whichever is earlier.

C. The Offeror is in compliance with Section 420.512(5), Fla. Stat., which provides:

“Service providers shall comply with the following standards of conduct as a condition of eligibility to be considered or retained to provide services. For purposes of paragraphs (a), (b), and (c) only, the term ‘service provider’ means and is limited to a law firm, an investment bank, or a credit underwriter, and the agents, officers, principals, and professional employees of the service provider.

(a) A service provider may not make contributions in any amounts, directly or indirectly, for or on behalf of candidates for Governor, nor shall any service provider make a contribution in excess of \$100 to any candidate for a member of the State Board of Administration other than the Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(b) The service provider shall not participate in fundraising activities for or on behalf of candidates for Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(c) Service providers shall provide to the corporation a statement that the service provider has not contributed to candidates for Governor or contributed in excess of the amounts allowed by this section for a member of the State Board of Administration or engaged in fundraising activities for or on behalf of candidates for Governor in Florida since the effective date of this section or during the 24 months preceding the service provider's application to provide services to the corporation, whichever period is shorter.

(d) The service provider may not engage in prohibited business solicitation

communications with officers, members, or covered employees of the corporation.

(e) If a service provider is in doubt as to whether its activities, or the activities of its principals, agents, or employees, violate the provisions of this section, it may request a declaratory statement in accordance with the applicable rule and Section 120.565, Fla. Stat.

(f) If the corporation determines that a service provider has failed to meet the provisions of this section, it shall consider the magnitude of the violation and whether there has been a pattern of violations in determining whether to terminate or decline to enter into Contracts with the service provider.”

D. For the purpose of Section 420.512(5), Fla. Stat., “Prohibited Business Solicitation Communications” is defined by Section 420.503(32), Fla. Stat., which provides:

“Prohibited business solicitation communication’ means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

- (a) A verbal communication made on the record during a public meeting;
- (b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;
- (c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.
- (d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as a result of a competitive selection process, so long as the communication does not relate to solicitation of business.
- (e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.”

E. The Offeror is in compliance with Section 287.133(2)(a), Fla. Stat., which provides in pertinent part:

A person or affiliate who has been placed on the convicted vendor list, following a conviction for a public entity crime, may not:

- (a) submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity;
- (b) submit a bid, proposal, or reply on a contract with a public entity for the

construction  
or repair of a public building or public work;

(c) submit bids, proposals or replies on leases of real property to a public entity;

(d) be awarded or perform work as a contractor, supplier, subcontractor, or consultant  
under a contract with any public entity, and;

(e) transact business with any public entity in excess of the threshold amount provided in  
Section 287.017, Fla. Stat., for CATEGORY TWO: \$35,000, for a period of 36 months  
from the date of being placed on the convicted vendor list.

F. Pursuant to Section 119.0701(2), Fla. Stat., the Service Provider is required “to comply with public records laws, specifically to:

a. Keep and maintain public records that ordinarily and necessarily would be required by  
the public agency in order to perform the service.

b. Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

d. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.”

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when Service Provider is acting on behalf of Florida Housing.

G. The Offeror acknowledges that any Offeror selected shall be prohibited from engaging in activities in connection with services related to Florida Housing transactions that produce direct or indirect financial gain for the Offeror other than for



the compensation agreed upon in the Contract that results from this RFQ, unless that Offeror has Florida Housing's written consent after Florida Housing has been fully informed of such activities in writing.

H. In addition to the conflict of interest rules imposed by the Florida Statutes, the Offeror(s) that is (are) selected may not engage in any actual, apparent, or potential conflict of interest. Should any such actual, apparent, or potential conflict of interest come into being subsequent to the effective date of the Contract and prior to the conclusion of the Contract, the Offeror shall provide notification (Notice of Conflict of Interest) to Florida Housing, through first class certified mail, return receipt requested, within ten (10) working days, seeking consent from Florida Housing's Executive Director. If the Offeror is found to be in non-compliance with this provision, without written consent from Florida Housing's Executive Director, any compensation received in connection with the Contract shall be subject to forfeiture to Florida Housing.

I. The Offeror, in submitting this Response, acknowledges and agrees that the terms and conditions of this RFQ, as well as any modifications thereto, shall be incorporated into any Contract offered as a result of this RFQ.

J. Certification Statement (**Threshold Item**)

**THE FOLLOWING SHALL BE REPEATED IN THE OFFEROR'S RESPONSE AND SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND THE OFFEROR. FAILURE TO INCLUDE THE CERTIFICATION STATEMENT BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.**

**"I agree to abide by all conditions of RFQ 2014-02 and certify that all information provided in this Response is true and correct, that I am authorized to sign this Response as the Offeror and that I am in compliance with all requirements of the RFQ, including but not limited to, the certification requirements stated in Section Five of this RFQ."**

---

Authorized Signature (Original)

---

Print Name and Title

## **SECTION SIX INFORMATION TO BE PROVIDED IN RESPONSE**

In providing the following information, restate each item and sub-item (with its letter and number), limit your Response to one bound volume. Responses to the items must be included immediately after the restated items without any reference to any

appendix.

A. COVER LETTER

Each proposal must be accompanied by a cover letter that contains a general statement of the purpose of submission and includes the following information. Failure to provide this information may result in rejection of the Response.

1. The name, job title, address, office and cellular telephone numbers, fax number, and e-mail address of a primary contact person, who will be responsible for day-to-day contact with Florida Housing, and any backup personnel who would be accessible if the primary contact cannot be reached.
2. Legal business status (individual, partnership, corporation, etc.) and address and telephone number of the Offeror.

B. GENERAL INFORMATION

1. Provide evidence of certification that the Offeror is qualified to do business in the State of Florida.
2. Provide a copy of the declaration page as evidence of current professional liability/errors and omissions insurance to include the following:  
  
Name and carrier and policy number;  
Effective date of insurance;  
Policy exclusions, if any;  
Current coverage amounts;  
Staff covered; and  
Type of coverage.
3. Provide a brief history of the Offeror relative to Arbitrage Rebate calculations and experience. Include the year organized, ownership, affiliated companies and relationships, and the total number of employees.
4. Describe the Offeror's presence in Florida, and ability to be accessible to Florida Housing staff, availability for meetings, conferences, consultation, etc.
5. Describe the Offeror's ability to provide the services requested in Section Four of this RFQ immediately upon award of the Contract.

6. Provide a statement of any other qualifications or services, which the Offeror considers to be significant, innovative or otherwise relevant to Florida Housing.

#### C. EXPERIENCE AND RESOURCES

1. Provide at a minimum five references for which the Offeror has provided services similar to those requested in Section Four of this RFQ for tax-exempt revenue bonds. Include the company name, street address, contact name, and phone numbers for these references.
2. Describe the Offeror's experience providing the services or engaging in activities as they relate to the work being requested in Section Four of this RFQ.
3. Describe the legal expertise available within and/or to the Offeror with regard to the Arbitrage provisions of Section 148 of the Internal Revenue Code. Describe the quality control review process and quality assurance your firm provides to ensure that work performed is consistent with current federal tax and other applicable laws. Provide examples of tax opinions.
4. Provide Florida Housing with documentation regarding any failure to provide the required rebate calculation to the IRS within the specified time frame.

#### D. QUALIFICATIONS OF PERSONNEL

Provide an organizational chart and an overview of the key individuals (team members) proposed to be assigned to Florida Housing's account. The overview shall include the following information for each individual:

1. Name, title, and role on this engagement;
2. Office street address, e-mail address, and office and cellular telephone numbers;
3. Identify those members that have experience in or with (a) cash flow preparation, (b) single family and/or multifamily finance, and (c) other state and local housing authorities;
4. Specific qualifications and expertise; and
5. A description of the individuals' relevant educational and professional accomplishments.

#### E. LEGAL ISSUES

1. Describe any completed or pending litigation involving or alleged to involve securities laws violation(s) by members of the Offeror's firm

and specifically those that would be involved with providing services to Florida Housing.

2. Disclose any representation or relationship that may present a conflict of interest.
3. Provide a description of to what extent, if any, the Offeror, including all holding companies and subsidiaries, or any officers or directors or other key personnel, is now, or has been, under indictment, or subject to an order from a court of competent jurisdiction. Describe impending litigation of which Florida Housing should be made aware. In addition, provide a description of to what extent, if any, the Offeror, including all holding companies and subsidiaries, or any officers or directors or other key personnel, is now, or has been, during the last ten years, under investigation, been the subject of any allegation, or under an order issued by a regulatory of governmental agency. If any such condition exists, or existed, discuss the outcome, if one has occurred, or probably outcome, and to what extent this could impair the level of service of the Offeror.

#### F. TECHNICAL APPROACH

1. Provide a brief description of the Offeror's approach in providing the services in Section Four of this RFQ.
2. Describe the format that the Offeror will require for data submission from Florida Housing to perform calculations. Describe in detail the information and assistance you will require from Florida Housing in completing the Arbitrage calculations. Indicate whether additional information or reports will be required.
3. Provide an actual report or sample of calculations that the Offeror has performed for services similar to those requested in Section Four of the RFQ.

#### G. FEES

1. Provide the proposed fee to be charged in connection with the services described in Section Four, items A-M all inclusive, of this RFQ. A fee schedule work sheet (Exhibit A) is attached hereto for use in itemizing fees.
2. Fees proposed shall include all charges relating to the services required under the contract and all out-of-pocket expenses, such as telephone, postage and shipping, printing and/or copy costs, and travel, if any. No costs will be reimbursed under the Contract.

*FINAL FEE SCHEDULE SHALL BE SUBJECT TO NEGOTIATION.*

H. DRUG-FREE WORKPLACE

If the Offeror has implemented a drug-free workplace program, pursuant to Section 287.087, Fla. Stat., the Offeror must submit a valid affidavit to demonstrate its status.

I. MINORITY BUSINESS ENTERPRISE

If the Offeror is a minority business enterprise as defined in Section 288.703, Fla. Stat., the Offeror must submit a valid affidavit to demonstrate its status.

**SECTION SEVEN  
EVALUATION PROCESS**

Individual Committee members shall evaluate the Responses independently. As indicated in this section, points shall be assigned to certain items presented in Section Six of this RFQ. The individual Committee members shall evaluate the Responses by reviewing the answers to each of the items and assigning points up to the maximum points allowed for each item. The Committee shall not use those items without points assigned in computing the numerical score, but shall use them as part of their evaluation and recommendation process, for informational purposes, as a basis for possible disqualification, and to break any tie. The Committee shall also use the various scored items as a part of its evaluation and recommendation process. The Committee may conduct one or more public meetings during which members may discuss their evaluations, make any adjustments deemed necessary to best serve the interests of Florida Housing's mission, interview Offerors, observe a software demonstration, and develop a recommendation or series of recommendations to the Board. The Committee and/or Staff may make a recommendation, in addition to providing the scoring information and the information from the non-scored items to the Board for the Board to use in making the final selection. The Committee and/or Staff may also give the Board a written and/or verbal narrative describing the reasons for any recommendation. In the event of a tie, Florida Housing shall give preference in the award process to the Response certifying a drug-free workplace has been implemented in accordance with Section 287.087, Fla. Stat. If a tie continues to exist, Florida Housing shall give preference to minority business enterprises as defined in Section 288.703, Fla. Stat. Staff may recommend that the Board conduct oral interviews as part of the evaluation process to select the Offeror. The Board may use the Responses, the Committee's scoring, the non-scored items in the Responses, any other information or recommendation provided by the Committee or Staff, any oral presentations of Offerors and any other information the Board deems relevant in its selection of Offerors to whom to award a Contract. The points available for each of the items to be evaluated are as follows:

**Item Reference .....Maximum Points**

B. General Information.....5  
C. Experience and Resources .....30  
D. Qualifications of Personnel .....30  
F. Technical Approach .....20  
G. Fees ..... 15  
  
Total Points Available ..... 100

**SECTION EIGHT  
AWARD PROCESS**

Florida Housing shall provide notice of its decision, or intended decision, for this RFQ on Florida Housing’s Website the next business day after the applicable Board vote. After posting, an unsuccessful applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., et al. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., et al. or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

**EXHIBIT B  
FEE SCHEDULE**

<u>Annual Rebate Calculation</u>	<b>Per Multifamily</b>	<b>Per Single Family</b>
Year 1 – Initial Report Fee Including engagement fee	\$1,500	\$1,500
Subsequent Annual Report Fee	\$1,250	\$1,450
Extra Period Fee (Additional fee for preparing Arbitrage Rebate report covering Periods in excess of 12 months.)	\$500	\$500

*Fees shall include all charges relating to the services required under the contract and all out-of-pocket expenses, such as telephone, postage and shipping, printing and/or copy costs, and travel, if any. No costs will be reimbursed under this Contract.*