



# Anderson Housing Authority

*Kimberly G. Townsend, Executive Director*

528 W. 11<sup>th</sup> Street, Anderson, IN 46016

Telephone/TDD (765) 641-2620 Fax (765) 641-2629

Email: [ahain@ahain.org](mailto:ahain@ahain.org)

*Thomas J. Broderick, Jr., Mayor*

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Request for Proposals

RFP #: 2023-01

May 19, 2023

Repositioning Legal Services

## Cover Page

Issued by: Anderson Housing Authority (Indiana)

Project: Public Housing Repositioning Legal Services

Services: Legal services for the repositioning of public housing properties through RAD/Section 18 Blend and closeout of public housing program.

Issue Date: May 22, 2023

RFP Questions Due: June 22, 2023

Attn: Kevin Sulc, Chief Operating Officer

Proposals Due: July 13, 2023, 3:00 p.m. EST. Late submissions will not be accepted.

Submit Proposals To: Anderson Housing Authority, 528 W. 11<sup>th</sup> Street, Anderson, IN 46016; Attn: Kevin Sulc or email [ksulc@ahain.org](mailto:ksulc@ahain.org).

RFP Contact: Kevin Sulc, [ksulc@ahain.org](mailto:ksulc@ahain.org), (765) 639-5722

Document Availability: [www.ahain.org](http://www.ahain.org)

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## Introduction

### A. Notice

The Anderson Housing Authority (AHA) requests statements of for legal services to be performed under a contract with AHA by a firm with experience providing legal services for public housing repositioning and conversion to a Rental Assistance Demonstration (RAD) platform under the U.S. Department of Housing and Urban Development (HUD) together with all the various legal issues and closing transactions associated therewith. The selected applicant shall provide legal representation services with respect to the AHA's conversion to a RAD regulatory platform which may also involve Section 18 demolition and disposition and low income housing tax credits. Legal services under the RFP are expected to last no more than three years.

Proposals must be received by July 13, 2023, 3:00 p.m. EST. Proposals may be submitted via link in email to Kevin Sulc, [ksulc@ahain.org](mailto:ksulc@ahain.org), or mailed to Anderson Housing Authority, 528 W. 11<sup>th</sup> Street, Anderson, IN 46011. Proposals received after the deadline will not be considered.

The RFP document is posted to the AHA website at ([www.ahain.org](http://www.ahain.org)). Proposal documents can be viewed and downloaded from that site. Proposals may check the site for any addendums before submitting their proposal.

AHA reserves the right to request any and all proposals and waive any and all formalities in the best interest of the authority.

## B. Anderson Housing Authority

The Anderson Housing Authority was established in 1975 in accordance with the US Housing Act of 1937 and Indiana State Laws. The mission of AHA is to promote, without discrimination, affordable quality housing, economic opportunity, and a positive living environment for the residents we serve. We are committed to providing housing opportunities of all types to low and moderate income families. We administer 117 units of traditional subsidized rental (Public Housing) units as well as 60 Affordable and Tax Credit units throughout the community. We also administer approximately 1,306 HCV (Section 8 ) and 70 Mainstream vouchers in Anderson, IN and surrounding communities of Madison County. The Anderson Housing Authority offers housing alternatives without regard to race, color, religion, sex, handicap, familial status, or national origin. We invite eligible applicants to consider the Anderson Housing Authority when making their housing choice. Our goals are as follows:

- To increase and preserve the supply of affordable quality housing.
- To maintain high levels of customer satisfaction.
- To widely communicate the services and achievements of the Housing Authority.
- To maintain balanced budgets including provisions for appropriate reserves.
- To attract and retain the highest caliber employees dedicated to carrying out the Housing Authority mission.

Anderson Housing Inc. is a 501(c)3 Not-for Profit agency managed by the Anderson Housing Authority. AHI has a 9-member board of directors, including 2 residents and/or development area community members. AHI manages 49 LIHTC properties called “Westwood Estates” and 11 single-family affordable housing units. In addition, AHI manages an 8-unit apartment building called “Abbott Apartments” which is owned by Pathstone Corporation located at 8<sup>th</sup> and College and Parkview Place Apartments located at the YMCA and owned by Episcopal Retirement Services.

As managing agent, AHI offers a barrage of amenities that makes us one of the highest rated agents in Madison County. We offer a full staff of housing managers, Section 8 specialists, maintenance, finance specialists including an accounting firm, housekeeping and a full-time housing counselor. The managing agent possesses years of experience in both affordable, tax credit and low-income public housing properties. We believe our model of excellence, tenant accountability, rent collections, bill payments and property upkeep will more than satisfy any property owner that wishes to maintain safe, decent and suitable housing. Our model also allows for a great partnership and profitability.

## C. Portfolio Repositioning: Overview and Goals

AHA has set out to reposition its public housing, issuing a RFQ for a Co-Development partner in late April 2023 with final selection anticipated by summer 2023. Many housing authorities, like AHA, are focusing on creating self-sustaining developments through public-private partnerships, thereby ensuring residents have a well-managed and well-maintained place to live. AHA is looking to transform itself from an agency that administers HUD programs to a real estate development company while continuing its mission to serve low income families throughout the City of Anderson, Indiana.

In September 2022, AHA had undertaken an analysis of its affordable housing portfolio in partnership with Dominion Due Diligence Group (D3G). That review identified options, opportunities, and strategies for repositioning all public housing units, both multifamily and scattered sites. The review also indicated financial capacity to address current and projected capital needs and repairs while also strengthening AHA’s overall long-term financial position.

AHA's current public housing portfolio consists of 117 units across 36 scattered single-family home sites and two main complexes: Lynnwood Village and Westvale Manor.

The D3G repositioning analysis conducted in 2022 called for AHA to reposition the entire public housing portfolio. Implementation of this strategy would rely on a Section 18 Disposition application for some or all scattered site single family homes as well as a RAD/Section 18 Small Agency Blend strategy for Lynnwood Village and Westvale Manor. AHA anticipates closing out its public housing portfolio. Legal assistance would be minimal, if needed, for the scattered site Section 18 disposition process as AHA has past experience with SAC applications and approvals.

#### D. Authority's Reservation of Rights

1. The AHA reserves the right to reject any and all proposals, to waive any informalities in the RFP process, or to terminate the RFP process at any time if deemed by the AHA to be in its best interest.
2. The AHA reserves the right to not award a contract pursuant to this RFP.
3. The AHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon ten (10) days written notice to the successful proposer.
4. The AHA reserves the right to determine the work schedule and locations that the successful proposer shall provide the services described in the RFP.
5. The AHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of sixty (60) days subsequent to the deadline for receiving proposals without the written consent of the AHA.
6. The AHA reserves the right to negotiate the fees proposed by the proposer entity as described in the RFP.
7. The AHA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested services.
8. The AHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
9. The AHA shall reserve the right to, at any time during the RFP or contract process, prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the required details herein.

#### Required Qualifications

The legal team should have demonstrated experience developing and negotiating agreements among PHAs, their development partners, equity providers, lenders, funders and other third parties. The legal team should also have demonstrated experience with the interaction of housing authorities, as well as their affiliate entities, with HUD and the regulations and requirements associated with affordable housing redevelopment. Past experience working in Indiana is not required, but will be given consideration. Experience with legal requirements related to RAD financing, the use of Low Income Housing Tax Credits (LIHTC), tax-exempt debt financing, HOME, CDBG, State HFA programs, project basing of housing choice vouchers, and other public or private funding mechanisms is expected. The selected legal team must have, at a minimum, qualifications and experience necessary to perform the scope of work as described as follows:

- Significant demonstrated experience with HUD RAD conversion program, particularly RAD/Section 18 Blends;
- Demonstrated capacity to prioritize AHA work, respond promptly to inquiries and to competently and efficiently manage needs and redevelopment activities;

- Demonstrated client-centered approach that appropriately staffs every assignment with a knowledgeable team which prioritizes responsiveness and efficiency;
- Legal team members representing AHA must be in good standing with the State of Indiana and HUD;
- Familiarity with public housing and affordable housing development legal issues including the governing Federal Public Housing Code and related HUD regulations;
- Experience assisting PHA with closing out its Section 9 program;
- Proof of professional liability insurance;
- Confirmation that the firm is free from potential conflicting interests from business foreseeably conducted by the firm.

## Scope of Work

The successful legal team will be responsible for assisting the AHA with any and all legal aspects associated with the RAD conversion process. The legal team will offer legal opinions and/or recommendations that will enable AHA to achieve its program goals.

Legal scope of services includes (but is not limited to):

- Draft any documents in respect to the RAD and/or Tax Credits transactions (e.g., Sponsor Loan documents, Ground Lease, Declaration of Restricted Covenants and Project-Based Voucher documents);
- Negotiations and evaluation of agreements (e.g., Master Development Agreement with co-development partner, financing agreements, Limited Partnership Agreements, Payment in Lieu of Taxes, Property Management Agreement). Analyze documents and convey any legal or financial implications of AHA or its affiliates. Provide comments. Assist AHA in protecting its interests and resources;
- Advise AHA on local, state and federal statutory and regulatory matters relative to implementation of the project;
- Provide comprehensive representation of the AHA in negotiations with HUD, investors, lenders and other agencies as necessary);
- Represent the AHA in connection with tax credit syndication and issuance of tax-exempt bonds;
- Represent AHA relative to all financing associated with the conversion;
- Legal advice and assistance in creating appropriate legal entities as affiliates or subsidiaries of AHA;
- Legal advice and written opinions as it pertains to conversion from public housing to Section 8 through RAD/Section 18;
- Participate in necessary development team meetings, Board of Commissioner meetings, equity provider meetings, lender meetings or HUD meetings as necessary;
- Prepare and negotiate documents required for the closing of the RAD/Section 18 conversion;
- Assist AHA with closeout of its Section 9 program.

## Submission Requirements

It is each proposer's responsibility to be aware of and to abide by all dates, times, conditions, requirements, and specifications set forth within all applicable documents issued by AHA, including the RFP, Attachments, and any addenda. By virtue of completing, signing, and submitting the completed documents, the proposer is stating his/her agreement to comply with all the conditions and requirements set forth within those documents.

To provide all responding firms equal consideration and opportunity to be evaluated fairly, submissions must be formatted as described below. The sections that must be included in the written submission are below and must be clearly labeled and assembled in the order provided below. Responses that do not include all required information may be deemed unresponsive. Concise and clear submissions are encouraged. If necessary, AHA may seek clarification after submission.

**Respondents must submit one (1) electronic version or hard copy version to the AHA by July 13, 2023, at 3:00 PM EST.**

#### **TAB 1: Cover Letter**

Respondent's submittals shall be accompanied by a Cover Letter on the respondent's letterhead. The letter should state proposer understands the scope of services, the commitment to perform the services expeditiously, and a brief statement indicating why the respondent believes they are best qualified to perform the engagement. Introduce the firm and describe your general philosophy and relevant experience. Briefly describe all members of the legal team being proposed. Confirmation that the firm is free from potential conflicting interests from business foreseeably conducted by the firm. The letter should be signed by authorized representative of the legal firm.

#### **TAB 2: Firm Description(s) and Key Personnel**

Discuss the firm's history, organization and size. Provide a statement of the law firm's philosophy. Provide an overall summary of the law firms' knowledge as it relates to the scope of this RFP.

Describe the overall staffing approach and provide information regarding staff experience and qualifications that demonstrate the respondent's capacity to perform the required services. Resumes for key personnel who will be assigned to AHA work should be provided. If the firm is multi-disciplinary, describe other resources and skills available. If the firm is smaller, please describe the approach to involving third party contractors if necessary to fulfill required scopes.

Certify that all key team members will be available to start immediately or describe existing time commitments which would impair the respondent's ability to proceed expeditiously.

#### **TAB 3: Proposed Approach**

Include in this section a narrative which explains the proposed method for implementing the legal services as well as coordinating and communicating with the AHA and its partners. Provide a brief narrative summary describing the legal issues anticipated based on the proposed RAD/Section 18 Small Agency Blend approach and the single family scattered sites being disposed of through Section 18.

#### **TAB 4: Past Similar Project Narrative**

Describe firm's knowledge and relevant experience in providing legal services with regards to negotiating a co-developer partnership, the conversion of public housing to the RAD Section 8 platform and the areas under Scope of Work.

#### **TAB 5: References**

Provide 3 former or current client references, including PHAs, for who the proposer has performed services similar to those sought by AHA. Please include: the entity's name with the specific contact person's name, email address and telephone number.

#### TAB 6: Fee Proposal

Include a fee proposal that identifies the hourly billing rates for all proposed staff who might be required for work under the contract resulting from the RFP, including any subconsultants, if applicable. Provide any other key business terms.

#### TAB 7: Proof of Professional Liability Insurance

Please provide evidence of liability insurance in the amount not less than \$1,000,000.

#### TAB 8: HUD Forms

All forms attached and/or required to be attached to the RFP as throughout this request, including but not limited to: HUD Form 5369 B, HUD Form 5369 C, HUD Form 5370 C, Certificate as to Principal, Non-Collusion Affidavit and Section 3 Affirmative Action Plan.

## Evaluation Criteria

Respondents' submittals will be evaluated based on the criteria listed in this section and further described above. In preparing the submittal to AHA, it is for respondents to clearly demonstrate their expertise and qualifications in the areas described in this RFP.

Respondents are encouraged to identify and clearly label in their submittal how each criterion is being fully addressed. Evaluation of responses to this solicitation will be based only on the information provided in the submittal package, and if applicable, interviews, and reference response. The AHA reserves the right to request additional information or documentation from the firm regarding its submittal documents, personnel, or other terms to complete the selection process. If a responding firm chooses to provide additional materials in their submittal beyond those requested, those materials should be identified as such and included in a separate section of the submittal.

The following factors will be used by the AHA to evaluate each submission received. Award of points for each listed factor will be solely based upon the submitted documentation:

#### Factor 1—Project Management Approach— 25 points

- Proposed methodology for implementing the proposed legal services, coordinating with various partners, addressing anticipated issues and commencing legal services immediately upon award of contract.

#### Factor 2—Firm Staff Capacity and Experience—30 points

- Evidence of respondent's capacity to provide legal services on a timely basis
- Evidence of the respondent's experience, knowledge and expertise in closing transactions and providing legal guidance for projects involving public housing, RAD, Section 18, Low Income Housing Tax Credits, HUD and Project-based Section 8.
- Completeness of RFP response

#### Factor 3—Fee Schedule—20 points

- Complete fee schedule and hourly billing rate of proposed staff

**Total: 75 points**

## Selection Process

Respondents must submit **one (1) electronic version (on flash drive or via file share platform such as Dropbox)** to the AHA **July 13, 2023, at 3:00 PM EST.**

Each proposal received will first be evaluated for responsiveness to the submission requirements.

AHA anticipates that it will convene a selection committee with up to 3 people to evaluate each of the responsive submittals. The selection committee will evaluate and award points based on the factors and points above.

If the evaluation was performed to the satisfaction of the AHA Executive Director, the recommendation may be forwarded to the AHA Board of Commissioners for approval.

The AHA reserves the right to make its final selection based solely upon those initial steps. If the AHA determines that another step is necessary to narrow the field of qualified respondents, a select number of respondents will be notified, and additional information may be requested and/or interviews may be held to determine the final selection.

The AHA reserves the right to conduct reference checks at any point in the review and evaluation process. In the event that information obtained from the reference checks reveals concerns about the proposer's past performance and their ability to successfully perform the contract to be executed based on this solicitation, the AHA may, at its sole discretion, determine that the respondent is not a responsible legal counsel and may select the next highest-ranked respondent whose reference checks validate the ability of the respondent to successfully perform the contract to be executed based on this solicitation. In conducting reference checks, the AHA may include itself as a reference if the respondent has performed work for the AHA, even if the respondent did not identify AHA as a reference.

By submitting in response to this solicitation, the respondent accepts the procurement method used and acknowledges and accepts that the evaluation process will require subjective judgments by the AHA and the evaluation panel.

## Statements and Required Information

- HUD Form 5369 B
- HUD Form 5369 C
- HUD Form 5370 C
- Certificate as to Principal
- Non-Collusion Affidavit
- Section 3 Affirmative Action Plan