



NOTIFICATION OF REQUEST FOR PROPOSALS
SOUTHEASTERN ARIZONA GOVERNMENTS ORGANIZATION
REQUEST FOR PROPOSALS
RURAL ENERGY FOR AMERICA TECHNICAL ASSISTANCE GRANT

Notice is hereby given that Southeastern Arizona Governments Organization (SEAGO) is soliciting proposals from qualified consulting firms for the implementation of a Rural Energy for America Technical Assistance Grant (REAP TAG), awarded by the United States Department of Agriculture. The purpose of the REAP TAG Program is to enable SEAGO to provide technical assistance to Agricultural Producers and Rural Small Businesses applying to REAP, with priority for Applicants assisting distressed or disadvantaged communities and for Applicants pursuing projects using underutilized technologies or seeking grants under \$20,000. The awarded firm will process REAP applications from Santa Cruz, Graham and Greenlee Counties, and assist SEAGO in developing in-house capacity to continue processing REAP applications after the grant expires. See the RFP documents linked below for a detailed scope of work for this federally-funded grant.

WHERE TO OBTAIN RFP PACKET: Interested firms may obtain the RFP at the following website:
<https://www.seago.org/public-notice>.

PRE-PROPOSAL CONFERENCE: A NON-MANDATORY pre-proposal conference will be held at 10:00 a.m. on Friday, March 15, 2024. Interested firms may attend in person or via the Zoom link in the RFP documents. Reasonable accommodations for persons with disabilities will be made.

DEADLINE TO SUBMIT QUESTIONS: Any questions about this RFP must be e-mailed on or before Friday, March 22, 2024 at 4:00 p.m. (ARIZONA TIME) to Robin Dumas, Economic Development Planner II at rdumas@seago.org.

DEADLINE TO SUBMIT: Proposals must be submitted on or before **Friday, March 29, 2024 at 4:00 p.m. (ARIZONA TIME)**.

WHERE TO SUBMIT: Proposers must submit **ONE (1) DIGITAL COPY OF THE PROPOSAL plus ONE (1) ORIGINAL** to the following address:

Robin Dumas, SEAGO Economic Development
Southeastern Arizona Governments Organization

Request for Proposals



Rural Energy for America Technical Assistance Grant

**Submission Deadline: March 29, 2024
4:00PM MST (Arizona)**

**Prepared by:
SouthEastern Arizona Governments Organization
(SEAGO)**

1. BACKGROUND

SouthEastern Arizona Governments Organization (SEAGO) is a regional planning agency, otherwise known as a Council of Governments. A Council of Governments (COG) is a public organization encompassing a multi-jurisdictional regional community. A COG serves the local governments and the citizens in the region by dealing with issues and needs that cross city, town, county, state, and in the case of Arizona, international boundaries. Mechanisms used to address these issues include communication, planning, policymaking, coordination, advocacy, funding, and technical assistance. SEAGO was established in 1972, and incorporated in 1976 as a 501(c) 3, nonprofit organization which serves the four counties of Cochise, Graham, Greenlee, and Santa Cruz.

SEAGO was awarded a Rural Energy for America Program Technical Assistance Grant (REAP TAG) from the United States Department of Agriculture (USDA) in 2023 to develop a program to assist qualified REAP applicants in the SEAGO region. The purpose of the REAP TAG Program is to enable applicants to provide technical assistance to Agricultural Producers and Rural Small Businesses applying to REAP, with priority for Applicants assisting distressed or disadvantaged communities and for Applicants pursuing projects using underutilized technologies or seeking grants under \$20,000. The program is set to begin in April 2024, and will conclude after one year.

2. REQUEST FOR PROPOSALS

SEAGO is issuing this Request for Proposals to solicit competitive vendor pricing in the open market for a contractor to assist with REAP TAG implementation. The awarded contractor will assist SEAGO in providing REAP Application support services. This work will include, but is not limited to: document development, e.g., application oversight and routing materials, documents that streamline and provide accountability for the REAP Application process, outreach materials in English and Spanish; and building SEAGO internal capacity through training and regular briefings on completed applications and processes with the goal of ensuring SEAGO staff can carry these services forward after the grant concludes.

SEAGO hereby invites qualified vendors to submit proposals. Submissions received before the closing deadline will be evaluated in accordance with the criteria set forth in Section 6 of this RFP, found on page 5. Submissions should include only relevant information and pricing pertaining to these criteria. All submissions will be handled in accordance with SEAGO's RFP Procedures.

3. SCOPE OF WORK

The Contractor shall provide all labor, materials, transportation, and technical expertise needed to successfully accomplish the required work outlined herein to SEAGO's satisfaction. The Contractor is responsible for:

- Providing technical assistance with REAP applications. The Contractor will support applicants through the REAP application process and will submit and track applications.
- Developing electronic and printed materials to support a REAP Technical Assistance Program. In collaboration with SEAGO staff, the Contractor will develop electronic materials to support and

streamline the REAP application process and the tracking of applications through the process. These materials will become part of SEAGO's REAP Technical Assistance Program and will also serve as a model that may be exported for use in other service areas in Arizona to increase rural energy resilience, increase business profitability, and lower costs to REAP recipients.

- Training SEAGO staff in REAP application best practices. The Contractor will also develop training materials to assist in providing ongoing technical assistance to applicants.
- Attending USDA REAP TAG meetings with SEAGO staff and partners, providing progress reports and professional advice, and delivering work products.
- Preparing Outreach/Briefing Program Materials for REAP Applicants in English and Spanish.
- Preparing Outreach/Briefing Program Materials for SEAGO REAP partners (e.g., Energy Project Assessors, Funders, Small Business Development Centers and other partners).

4. NECESSARY QUALIFICATIONS

The Contractor shall provide proof of the following qualifications:

- Minimum ten (10) years of experience submitting REAP Applications
- Demonstrated experience with Solar Power Purchase Agreements
- Demonstrated experience with the design, development, and startup of new programs with businesses and technology commercialization efforts
- Demonstrated experience with similar activities such as Renewable Energy Site Assessments, Energy Audits, and Renewable Energy Technical Assistance provided directly to Agricultural Producers and Rural Small Businesses
- Demonstrated experience assisting and training others on how to apply to the REAP program
- Demonstrated experience showing energy savings or energy generation with Agricultural Producers and/or Rural Small Businesses
- Accolades received within the last five (5) years in recognition of Renewable Energy services, energy savings, or energy-based technical assistance (Include descriptions of the achievements)

5. SUBMITTAL PROCEDURES, REQUIREMENTS, AND TIMELINE

Proposals must meet the following requirements to be considered responsive. Failure of the Applicant to provide all of the required information may result in the rejection of the Proposal. Proposals received after the specified time of closing will be returned unopened. Proposals not meeting all submittal requirements may be considered non-responsive and may not be evaluated.

SUBMITTAL

- A. One (1) original and one (1) copy of the complete proposal must be received in a sealed package by the proposal deadline to be considered responsive.
- B. The Proposal, whether in an envelope or other wrapping shall have "SEAGO REAP TAG PROPOSAL" marked clearly on its cover and shall be addressed to Robin Dumas, , SEAGO, 1403 West Highway 92, Bisbee, AZ 85603.
- C. A maximum number of fifty (50) pages is allowed for this proposal.

- D. A not-to-exceed cost shall be submitted with the proposal, which will include clear discussion on how to conduct and complete all services listed in the *Scope of Work* to achieve the expected deliverables. The proposed cost should include all necessary costs including, but not limited to: travel expenses, labor, materials, taxes, profit, insurance, and other overhead expenses. The proposed cost will be firm, and is based upon availability of budgeted funds from year to year. Percentage or cost plus proposals will not be accepted.
- E. The Applicant shall provide a primary contact, address, e-mail, phone number, its Unique Entity Identifier, and proof of registration with SAM.gov with the proposal.
- F. Proposals will be retained by SEAGO for thirty (30) days unless withdrawn prior to submission deadline. Applicants are responsible for all costs incurred in preparing and submitting their qualifications.

AWARD OF THE CONTRACT

The SEAGO Executive Director, in coordination with the REAP TAG scoring committee, will be responsible for evaluating the proposals and recommending the highest ranked proposal for contract award.

The contract for services will be considered complete upon acceptance of all deliverables by SEAGO. All deliverables shall become the property of SEAGO and its Member Entities upon acceptance of the deliverables.

INFORMATION REQUESTS

A non-mandatory pre-proposal conference will be held at the SEAGO Main Office located at 1403 West Highway 92, Bisbee, AZ, 85603 on Friday, March 15th at 10:00 am (Arizona time). Applicants may join the conference by Zoom at the following link: <https://us02web.zoom.us/j/87693137237>

SUBMITTAL SUMMARY AND TIMELINE

Pre-Proposal Conference Call	Friday, 3/15/2024 at 10:00 a.m. (Arizona)
Deadline for Questions	Friday, 3/22/2024 at 4:00 p.m.
Proposal Due Date	Friday, 3/29/2024 at 4:00 p.m.
Number of Proposals To Be Submitted	One (1) original and one (1) copy, sealed
Contact	Robin Dumas, SEAGO Economic Development Planner II
E-mail	rdumas@seago.org
Mailing Address	1403 W. Hwy. 92, Bisbee, AZ, 85603

6. PROPOSAL EVALUATION CRITERIA

The selection process for this contract will be primarily qualifications based. However, the proposed effort (number of hours), the proposed schedule and overall cost indicated in the proposal will also be

factors in the evaluation process. The following criteria will be used to evaluate proposals. Numbers in parentheses indicate the relative weight assigned to each category.

APPLICANT PROFILE (10 POINTS)

This section is intended to familiarize SEAGO with the Applicants. Applicants shall include a brief business/contractor profile. The profile should include contact information and provide an overview of the contractor's/firm's areas of expertise, scope of experience, and primary market areas.

EXPERIENCE WITH REAP APPLICATIONS AND PROCESS DEVELOPMENT (25 POINTS)

The Applicant should demonstrate experience with processing successful REAP Applications; REAP activities; Energy Audits; working with Energy Providers in support of REAP Applications; and developing REAP application process materials. For each similar contract listed, the Applicant shall provide a brief description of services provided, the outcome of the services provided, the name and phone number of the funding contract manager, contract start and end dates, and total dollar value of the contract.

ADDITIONAL EXPERTISE AND EXPERIENCE (25 POINTS)

The Applicant should possess experience in the relevant skills needed to successfully deliver services under this contract. These skills could include experience with training and developing training materials; developing materials to track processes and provide accountability; and facilitation and marketing. Proposals should include a brief description of relevant training, experience, and expertise and provide specific project outcomes and references where appropriate. Any professional credentials should also be noted.

In addition to the criteria identified above, further evaluation of the Applicant's qualifications and experience may include reference checks and an oral interview upon SEAGO's request.

WORK PLAN AND SCHEDULE (15 POINTS)

The proposal should include a detailed work plan directly resulting in the expected deliverables, and describe how the work plan will be implemented. This section provides Applicants with the opportunity to discuss original ideas or concepts that they believe are directly relevant to this program.

COST (25 POINTS)

The proposed cost will be heavily considered as part of the selection process.

7. AWARD OF CONTRACT

Proposals will be evaluated as more fully set forth in the SELECTION PROCESS section, above. Contracts will be made or entered into based on the outcome of the evaluation process and any subsequent negotiations. The decision to award the Contract will be made and all Applicants notified of the results within thirty (30) days of the submittal deadline.

SEAGO reserves the following rights:

- To waive informalities in any proposal or in the proposal procedure
- To negotiate with the Applicants that submit proposals, in the manner allowed by law
- To reject the proposal of any persons or entities who have previously defaulted on any contract with SEAGO

- To reject any and all proposals
- To re-advertise for proposals
- To award the Contract on the basis of the best proposal, as evaluated by the criteria set forth in the PROPOSAL EVALUATION CRITERIA section, above
- To increase or decrease the scope of services herein specified as funds may permit
- To accept any item or combination of items of a proposal
- To conduct interviews with any or all Applicants and/or reference checks if deemed necessary prior to award
- To hold any or all proposals for a period of thirty (30) days after the date of opening
- To impose any insurance requirements as deemed appropriate by SEAGO.



Each Applicant, by submission of a Proposal, agrees to waive any and all claims for damages against the officers or employees of SEAGO when any of the rights reserved by SEAGO herein may be exercised.

If an Applicant wishes to appeal the decision to reject its proposal, the Applicant must write to the SEAGO Executive Director within seven (7) calendar days following notice by the Applicant that it was not selected to provide the services pursuant to this Request for Proposals. The Applicant will then have an opportunity to present their case to the REAP TAG scoring committee. Appeals shall be submitted in writing to: Keith Dennis, Executive Director, SEAGO, 1403 West Highway 92, Bisbee, AZ, 85603, or emailed to kdennis@seago.org.

Appeals must contain, at a minimum, the name, address and telephone number of the appellant, the signature of the appellant or its representative with authority to sign; a detailed statement of the legal and factual grounds of the appeal including copies of relevant data; and the form of relief requested. The scoring committee will review the appeal statement and the rationale used in the evaluation of the proposals and will decide whether the proposal should be reconsidered for award.

8. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

SEAGO hereby notifies all Applicants that it will affirmatively ensure that in any contract entered into pursuant to this solicitation, minority business enterprises will be afforded full opportunity to submit proposals in response to this Request for Proposals and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

EXHIBIT A



REAP TAG PROPOSAL EVALUATION SHEET

Name of Applicant		
Date of Rating		
Evaluator Name		
Category	Possible Points	Points Awarded
1. Applicant Profile	10	
2. Experience with REAP	25	
3. Additional Expertise and Experience	25	
4. Work Plan and Schedule	15	
5. Cost/Billing Rates	25	
Total Points	100	
Comments:		

EXHIBIT B

SEAGO

RURAL ENERGY FOR AMERICA TECHNICAL ASSISTANCE GRANT AGREEMENT

This Agreement (hereinafter, "Agreement") is made and entered into as of _____, 2024, between the SouthEastern Arizona Governments Organization (hereinafter, "SEAGO") and _____, (hereinafter, "CONSULTANT"), and is a one (1) year Agreement from the date of execution of the Agreement by the SEAGO and CONSULTANT.

Recitals:

WHEREAS, SEAGO is the recipient of a Rural Energy for America Technical Assistance Grant (REAP TAG) from the United States Department of Agriculture for the purpose of creating a REAP program for SEAGO; and

WHEREAS, SEAGO desires the CONSULTANT to perform professional services in the implementation of said REAP TAG; and

WHEREAS, the CONSULTANT is qualified to perform the professional services as identified in the Scope of Services (hereinafter, "Scope of Services") submitted by the CONSULTANT in its response to the Request for Proposals (hereinafter, RFP) for the Study, and provide the deliverables required by SEAGO in the RFP.

NOW, THEREFORE, the parties mutually agree and Agreement as follows:

1. Performance of Work - The CONSULTANT promises and agrees to perform the work, as described in this Agreement and the Scope of Services in a good, competent and professional manner, and as specifically indicated in CONSULTANT's Proposal opened on March 29, 2024, to the complete satisfaction of the SEAGO. The RFP and the CONSULTANT's Proposal are incorporated herein by this reference, and the documents are made a part of this Agreement as if the same were fully set forth herein. In the event that any incorporated term or provision conflicts with this Agreement, this Agreement controls.

2. Scope of Work -The CONSULTANT shall provide all of the materials, equipment, and work required by this Agreement in a competent and acceptable form and manner, including, all of the work described in the RFP and the Scope of Services in the CONSULTANT's Proposal.

3. Compensation - SEAGO will compensate the CONSULTANT for performance, and the CONSULTANT agrees to accept as complete payment for such full performance, **the sum** _____ **(\$ __,000.00)** for the one (1) year period under this Agreement. Charges for additional services that constitute a requested increase in scope of work, or completion time, or additional assistance with obtaining additional REAP-related funding applications may be negotiated. Such additional work shall be requested in writing by either SEAGO or CONSULTANT and must be approved by SEAGO's Executive Director.

4. Invoicing and Payments - The CONSULTANT shall invoice SEAGO on a quarterly basis. The invoice shall show the total percent previously completed and an itemization of all work completed. The invoice shall show the CONSULTANT's name, address, phone number, fax number, and any other necessary information. All invoices are subject to review and certification of SEAGO's authorized representative and/or SEAGO prior to payment.

Every payment obligation of SEAGO under this Agreement is conditioned upon the availability of funds, appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by SEAGO at the end of the period for which the funds are available. No liability shall accrue to SEAGO in the event this provision is exercised, and SEAGO shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

5. Rejection/Correction of Work - SEAGO shall have the right to reject all or any work or products submitted under this Agreement which do not meet the required specifications. In the event of any such rejection, the CONSULTANT agrees to promptly remedy any and all deficiencies. No compensation shall be due for any rejected work until such deficiencies have been corrected, and corrected at the CONSULTANT's sole cost.

6. Notices - All notices, invoices, and payments shall be made in writing and may be given by personal delivery or by mail or e-mail with signature. The designated recipients for such notices, invoices, and payments are as follows:

To SEAGO: Robin Dumas, Economic Development Planner II
SEAGO
1403 W. Highway 92
Bisbee, Arizona 85603
Phone: (520) 432-5301

To CONSULTANT: _____

7. Entire Agreement - This Agreement shall be effective upon its approval by the parties, as indicated by the signatures of their representatives hereto. This Agreement and its attachments and those documents incorporated by reference represent the entire Agreement and understanding between the parties. There are no verbal terms, conditions, or provisions. No amendment shall be effective unless properly authorized and executed by the parties in writing and in the same manner as this Agreement was executed.

8. Duration of Agreement – This Agreement shall become effective _____, **2024** and shall remain in effect until **June 30, 2025**, except as modified by mutual agreement between SEAGO and CONSULTANT.

9. Additional Agreement Terms - This Agreement includes the terms, conditions, and provisions entitled Terms, Conditions and Certifications as attached hereto as Exhibit C.

SEAGO – Keith Dennis, Executive Director

Date

CONSULTANT - _____

Date

EXHIBIT C

STANDARD AGREEMENT TERMS AND CONDITIONS

SEAGO RURAL ENERGY FOR AMERICA TECHNICAL ASSISTANCE GRANT

THE FOLLOWING TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE AGREEMENT FOR THE SEAGO RURAL ENERGY FOR AMERICA TECHNICAL ASSISTANCE GRANT BETWEEN SEAGO AND _____, EFFECTIVE ON _____, 2024.

1. **CERTIFICATION:** By execution of the Agreement, the CONSULTANT certifies that all laws, rules and regulations pertaining to civil rights, equal employment opportunity, affirmative action for disabled workers, access to records and records retention, conflict of interest, lobbying, and drug free workplace shall be followed by the CONSULTANT. By execution of the Agreement, the CONSULTANT also certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in Agreements funded by any federal department or agency. Furthermore, the CONSULTANT will cause these provisions to be inserted in all subcontracts for any services covered by under the Agreement, so that such provisions will be binding upon each sub-firm.
2. **GRATUITIES:** SEAGO may, by written notice to the CONSULTANT, cancel the Agreement if SEAGO determines that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the CONSULTANT or any agent or representative of the CONSULTANT, to any officer, agent, or employee of SEAGO with a view toward securing any Agreement, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such contact. In the event the Agreement is canceled by SEAGO pursuant to this provision, SEAGO shall be entitled, in addition to any other rights and remedies, to recover or withhold payment from the CONSULTANT in the amount of the gratuity.
3. **APPLICABLE LAW:** The Agreement shall be governed by the laws of the State of Arizona.
4. **LEGAL REMEDIES:** The parties hereby agree to make a good faith effort to resolve any controversy or claim through informal negotiations. Any claim or controversy must first be presented in writing, with supporting documentation, to the other party or its authorized agent. The recipient shall have seven (7) days to prepare and deliver a response. Thereafter, if the parties fail to resolve the claim or controversy following a reasonable period for such resolution, but not less than ten (10) days, the aggrieved party may request the presiding judge of the Superior Court of Cochise County, Arizona to assign a mediator.
5. **AGREEMENT:** Agreement Documents between SEAGO and the CONSULTANT shall consist of:
 - (a) The RFP, including instructions, and all terms and conditions, service plans, scope of services, and attachments or addenda thereto;

- (b) The Proposals submitted by the CONSULTANT in response to the RFP and subsequent negotiations with SEAGO;
- (c) These Standard Agreement Terms and Conditions; and
- (d) The executed Agreement.

The RFP shall govern in all matters not otherwise addressed by this Agreement or the CONSULTANT's proposals. All of these documents shall cumulatively constitute "the Agreement," as used herein.

- 6. **AGREEMENT AMENDMENTS:** The Agreement may be modified only by a written amendment authorized by SEAGO's Executive Director.
- 7. **AGREEMENT APPLICABILITY:** The CONSULTANT shall substantially conform to the terms, conditions, specifications, and other requirements found within the text of the Agreement documents. All previous Agreements, understandings or other documents between the CONSULTANT and SEAGO, which are not expressly part of the Agreement, are not applicable and are not part of this Agreement.
- 8. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of either party the Agreement will forthwith be expressly amended to make such insertion or correction.
- 9. **SEVERABILITY:** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid shall not affect any other provision or applications of the Agreement which may remain in effect without the invalid provision or application.
- 10. **RELATIONSHIP OF PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. The CONSULTANT is an independent contractor in the performance of this Agreement. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. The CONSULTANT is advised that taxes or Social Security payments will not be withheld from a payment issued hereunder, and that the CONSULTANT should make arrangements to directly pay such expenses, if any.
- 11. **INTERPRETATION-PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their Agreement, and is intended also as a complete and exclusive statement of the

terms of the Agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Agreement. Acceptance or acquiescence in a course of performance rendered under the Agreement shall not be relevant to determine the meaning of the Agreement, even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity to object.

12. **ASSIGNMENT-DELEGATION:** No right or interest in this Agreement shall be assigned by the CONSULTANT without prior written permission of SEAGO, and no delegation of any duty of the CONSULTANT shall be made without prior written permission of SEAGO.
13. **RIGHTS AND REMEDIES:** No provision in this document or in the CONSULTANT's offer shall be construed, expressly or by implication, as a waiver by SEAGO, of any existing or future right and/or remedy available by law in the event of any claim or default or breach of Agreement. The failure of SEAGO to insist upon the strict performance of any term or condition of the Agreement, or to exercise or delay the exercise of any right or remedy provided in the Agreement, or by law, or the acceptance of materials or services, or the payment for materials or services, shall not release the CONSULTANT from any responsibilities or obligations imposed by the Agreement or by law, and shall not be deemed a waiver of any right of SEAGO to insist upon the strict performance of the Agreement.
14. **PROHIBITED INTERESTS:** Neither SEAGO, the CONSULTANT nor any of its contractors or their subcontractors shall enter into any Agreement, subcontract, or arrangement in connection with this Agreement or any property included or planned to be included in the services relating to this Agreement, in which a member, officer, or employee of SEAGO or the CONSULTANT either during his tenure or for one year thereafter has any interest, direct or indirect.
15. **INDEMNIFICATION:** Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the negligent act, omission, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. In addition, the CONSULTANT shall cause its contractor(s), subcontractors, and subrecipients, if any, to indemnify, defend, save and hold harmless SEAGO, the state of Arizona, any jurisdiction or agency issuing any permits for any services arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damages to tangible or intangible property to the extent caused, or alleged to be caused by the negligent or willful acts or omissions of the CONSULTANT's contractor or subrecipient or any of the directors, officers, agents, or employees or subcontractors of such contractor or subrecipient. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor or subrecipient to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising from the

negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor or subrecipient from and against any and all claims.

16. FORCE MAJEURE:

- (a) Except for payment of sums due, neither party shall be liable to the other, nor deemed in default under this Agreement, if, and to the extent that, such party's performance of the Agreement is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, Force Majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; insurrections; labor disputes; civil disorders; fire; floods; lockouts; injunctions, intervention, acts, or failures or refusal to act by government authority; and other similar occurrences beyond the control of the party declaring Force Majeure, which such party is unable to prevent by exercising reasonable diligence. The Force Majeure shall be deemed to commence when the party declaring Force Majeure notifies the other party in writing of the existence of the Force Majeure and shall be deemed to continue as long as the results or effects of the Force Majeure prevent the party from resuming performance in accordance with this Agreement.
- (b) Force Majeure shall not include late performance by a sub-firm, unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.
- (c) Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that, such delay or failure is caused by Force Majeure.
- (d) If either party is delayed at any time in the progress of the services by Force Majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours of commencement thereof, and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion may be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Agreement.

17. RIGHT TO ASSURANCE: Whenever one party to this Agreement in good faith has reason to question the other party's intent to perform, they may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Agreement.

18. RECORDS: The CONSULTANT shall retain, and shall contractually require each sub-firm to retain, reports, files, project activities, and other records relating to the acquisition and performance of the Agreement for a period of three (3) years after the completion of the Agreement. All such documents shall be subject to inspection and audit at reasonable times during normal business hours. Upon request, a legible copy of any or all such documents shall be produced at the request of SEAGO, and any other person or agency authorized by SEAGO.

19. **WARRANTIES:** The CONSULTANT warrants that all services performed under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Mere acceptance of the service specified, and any inspection incidental thereto by SEAGO, shall not alter or affect the obligations of the CONSULTANT or the rights of SEAGO under the foregoing warranties.
20. **ADVERTISING:** CONSULTANT shall not advertise or publish information concerning this Agreement without prior written consent of the SEAGO.
21. **TERMINATION BY SEAGO:** SEAGO may cancel this Agreement without penalty or further obligation pursuant to A.R.S. §38-511, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of SEAGO is or becomes, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity, or a CONSULTANT to any other party to this Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when written notice from SEAGO is received by the CONSULTANT, unless the notice specifies a later time.
22. **TERMINATION BY SEAGO FOR CAUSE:**
- (a) SEAGO, at its sole discretion, may terminate the Agreement if the CONSULTANT:
- i. Does not fulfill Agreement elements by due date;
 - ii. Disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction;
 - iii. Otherwise is guilty of a breach of a provision of the Agreement or other Agreement documents; or
 - iv. Fails or refuses to provide detailed billing invoices verifying tasks accomplished.
- (b) When any of the above reasons exist, SEAGO may without prejudice to the other rights or remedies of SEAGO, and after giving the CONSULTANT thirty (30) days written notice, terminate the Agreement with the CONSULTANT, and may finish the services by whatever reasonable method SEAGO may deem expedient. If the unpaid balance of the Agreement exceeds costs of finishing the Agreement, including all expenses made necessary thereby, the CONSULTANT shall be entitled to receive payment for its performance and for reasonable overhead, profit, and damages associated with such, up to the amount of such excess. If such completion costs exceed the unpaid balance, the CONSULTANT shall pay the difference to SEAGO within thirty (30) days of invoice from SEAGO.

- (c) In the event of any termination, all finished or unfinished documents, data, studies, models, photographs, applications, and reports prepared by the CONSULTANT under this Agreement shall, at the option of SEAGO, become SEAGO's property, and the CONSULTANT shall be entitled to receive just and equitable compensation for any services satisfactorily completed.
 - (d) Notwithstanding the above, the CONSULTANT shall not be relieved of liability to SEAGO for damages sustained by SEAGO by virtue of any breach of the Agreement by the CONSULTANT, and SEAGO may withhold any payments to the CONSULTANT for the purpose of set-off, until such time as the exact amount of damages due SEAGO from the CONSULTANT is determined.
23. **SUSPENSION BY SEAGO FOR CONVENIENCE:** SEAGO may, without cause, order the CONSULTANT, in writing, to suspend, delay, or interrupt its performance, in whole or in part, for such a period of time as SEAGO may determine. An adjustment shall be made for increases in the cost of performance of the Agreement, including profit on the increased cost of performance, caused by suspension, delay, or interruption. No adjustment shall be made to the extent:
- (a) That performance is, was, or would have been so suspended, delayed, or interrupted by another cause for which the Contractor is responsible; or
 - (b) That an equitable adjustment is made or denied under another provision of the Agreement.
24. **TERMINATION BY SEAGO FOR CONVENIENCE:** SEAGO, by written notice to the CONSULTANT, may terminate this Agreement, in whole or in part, when, in the sole discretion of SEAGO, it is in SEAGO's best interest to do so. In such case, the CONSULTANT shall be paid for all services provided, and reasonable termination expenses and a reasonable allowance for profit and overhead on its performance; provided, however, that such payments, exclusive of termination expenses, shall not exceed the total Agreement price(s) reduced by other Agreement payments previously made to the CONSULTANT, and as further reduced by the value of the performance as yet not completed. The CONSULTANT shall not be entitled to profit and overhead on services that were not provided. The parties expressly agree that this termination right is not a mutual right.
25. **TERMINATION NOTICE:** Upon receipt of a termination notice, the CONSULTANT shall: a) promptly discontinue all services affected (unless the notice directs otherwise); and, b) deliver or otherwise make available to SEAGO, copies of data, reports, applications, and such other information as may have been accumulated by the CONSULTANT in performing this Agreement.
26. **TERMINATION BY THE CONSULTANT:**

(a) The CONSULTANT may terminate the Agreement if the performance is stopped for a period of ninety (90) days through no act or fault of the CONSULTANT, its agents or employees, or any other persons performing portions of the project, for any of the following reasons:

- i. Issuance of an order of a court or other public authority having competent jurisdiction;
- ii. An act of government, such as a declaration of national emergency;
- iii. SEAGO has not made payment within sixty (60) days.

If one of the above reasons exists, the CONSULTANT may, upon seven (7) additional days written notice to SEAGO, terminate the Agreement and recover from SEAGO payment for its performance, including reasonable overhead, profit, and damages attributable to the performance rendered.

(b) The CONSULTANT may, upon thirty (30) days written notice, terminate the Agreement if the CONSULTANT has evidence that SEAGO or any of its Member Entities is guilty of a breach of any provision of the Agreement or any other Agreement documents.

27. **ACCESS TO INFORMATION:** It is agreed that all reasonable information, data reports, records, applications, spreadsheets, and other documents, as are existing, available, and necessary for the carrying out of the services outlined above shall be furnished to the CONSULTANT by SEAGO, provided CONSULTANT safeguard the same and not otherwise disclose the same to a third party without SEAGO's written permission.

No charge will be made to the CONSULTANT for such information, and SEAGO will cooperate with the CONSULTANT in every way possible to facilitate that performance of the services described in the Agreement.

28. **SEAGO'S PROPERTY:** All of the reports, information, data, etc., prepared or assembled by the CONSULTANT under this Agreement (unless described by the CONSULTANT in writing and agreed to by SEAGO) are the property of SEAGO and the CONSULTANT agrees that it shall not make available any such materials to any individual or organization without the prior written approval of SEAGO.

29. **REPORTS AND INFORMATION:** The CONSULTANT, at such times and in such forms as SEAGO may require, shall furnish SEAGO such reports as it may request pertaining to the services undertaken pursuant to this Agreement, the costs and obligations incurred, or to be incurred in connection therewith, and any other matter covered by this Agreement.

30. **CHANGES:** SEAGO may, from time-to-time, request changes in the scope of the services of the CONSULTANT to be performed under this Agreement. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon by and between SEAGO and the CONSULTANT, shall be incorporated in written amendments to the Agreement.
31. **PERSONNEL:**
- (a) The CONSULTANT represents that it has, or will secure at his/her own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, SEAGO.
 - (b) All of the services required hereunder will be performed by the CONSULTANT, or under its supervision, and all personnel engaged in the services shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
32. **SUBAGREEMENT:** No subcontract shall be entered into by the CONSULTANT with any other party to furnish any of the services specified herein without the advance written approval of SEAGO. All subcontracts shall comply with federal and state laws and regulations, which are applicable to the services covered by the subcontract, as if the sub-firm were the CONSULTANT referred to herein. The CONSULTANT is responsible for Agreement performance whether or not sub-firms are used.
33. **INSURANCE:** The CONSULTANT, at CONSULTANT's own expense, shall purchase and maintain the herein stipulated minimum insurance. All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Agreement is satisfactorily completed and formally accepted. Failure to fully maintain all insurance may, at the sole discretion of SEAGO, constitute a material breach of Agreement.

The CONSULTANT's insurance shall be primary insurance as respect to SEAGO, and any insurance or self-insurance maintained by SEAGO shall not contribute to it. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect SEAGO. The insurance policies, shall contain a waiver of transfer rights of recovery (subrogation) against SEAGO, its agents, officers, officials, and employees for any claims arising out of the CONSULTANT's acts, errors, mistakes, omissions, work or service.

The insurance policies may provide coverage that contain deductibles or self-insured retentions; however, such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to SEAGO under such policies. SEAGO reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements required under the Agreement. The insurance policies, except Workers' Compensation and Professional Liability, required by the Agreement, shall name SEAGO, its agents, officers, officials, and employees as "Additional Insured."

REQUIRED COVERAGE:

Commercial General Liability:

The CONSULTANT shall maintain commercial general liability insurance with a limit of \$1,000,000 for each occurrence with a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations, and blanket contractual coverage. Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause; nor any provision that would serve to limit third party action over claims.

Automobile Liability:

The CONSULTANT shall maintain commercial/business automobile liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 each occurrence and \$2,000,000 aggregate with respect to the CONSULTANT's owned, hired, and non-owned vehicles assigned to or used in performance of the work.

Workers' Compensation:

The CONSULTANT shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of the CONSULTANT's employees engaged in the performance of the work or services under the Agreement, with employer's liability insurance of \$100,000 for each accident, \$100,000 for each employee, and \$500,000 deceased policy limit.

In case any work is subcontracted, the CONSULTANT will require the sub-firm(s) to provide Workers' Compensation and employer's liability to at least the same extent as required of the CONSULTANT.

Professional Liability:

The CONSULTANT shall maintain professional liability insurance covering acts, errors, mistakes, and omissions arising out of the work or services performed by the CONSULTANT, or any person employed by the CONSULTANT, with a limit of \$500,000 each claim and \$1,000,000 in the aggregate.

Certificate of Insurance:

Prior to commencing work or services under the Agreement, the CONSULTANT shall furnish SEAGO with certificates of insurance, or formal endorsements as required by the Agreement, issued by the CONSULTANT's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by the Agreement are in full force and effect. In the event any insurance policy(ies) required by the Agreement is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Engineer's work or services and as evidenced by annual certificates of insurance.

Cancellation and Expiration Notice:

If a policy expires during the life of the Agreement, a renewal certificate must be received by SEAGO fifteen (15) days prior to the expiration date. Insurance required under the Agreement shall not expire without thirty (30) days prior written notice to SEAGO.

SEAGO maintains the right to impose insurance requirements as deemed appropriate.

34. MISCELLANEOUS PROVISIONS:

- (a) This Agreement shall be binding upon and ensure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
- (b) In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, it shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- (c) Subject to the provisions of paragraph 4 of these Standard Agreement Terms and Conditions, any action at law or in equity is necessary to enforce or interpret the terms of the Agreement; the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
- (d) To the extent applicable under Arizona Revised Statutes Section 41-4401, each Party and its subcontractors warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under Arizona Revised Statutes Section 23-214(A). A breach of the above-mentioned warranty by any Party or its subcontractors shall be deemed a material breach of the Agreement and may result in the

termination of the Agreement by the non-breaching Parties. Each Party retains the legal right to randomly inspect the papers and records of the other Parties' or its subcontractors' employees who work on the Agreement to ensure that the Parties or its subcontractors are complying with the above-mentioned warranty.

- (e) Pursuant to Arizona Revised Statutes Sections 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes Section 35-391 or 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.
- (f) No member, officer, or employee of SEAGO either during his or her tenure or for one year thereafter shall have any interests, direct or indirect, in this Agreement or the proceeds thereof.

1403 W. Highway 92, Bisbee AZ 85603

Proposers are responsible for their timely submission of proposals to SEAGO on or before the Submittal Deadline. No oral, telegraphic, electronic, facsimile, or telephonic bids or modifications will be considered unless specified in the solicitation document. Submissions mailed to an incorrect address or received after the deadline will be returned unopened to the sender and will not be considered for award.

It is the sole responsibility of the proposer to comply with any and all addenda issued and posted at the above website during this action. Small business enterprises, woman and/or minority-owned businesses are encouraged to participate.

Published: *The Bisbee Observer*: March 7 and 14; *Eastern Arizona Courier/Copper Era*: March 7 and 14; *Nogales International*: March 5 and 12; *The Daily Territorial*: March 4 and 11, 2024.