

§ 1506.11

of the competing contractor responsible for the bid, offer, or proposal for any contract or modification of such contract any subsequently gained information concerning a violation or possible violation of paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 3205-0001)

§ 1506.11 Confidentiality of information.

(a) *Nonpublic information defined.* Any information identified by the RTC as confidential or provided by the RTC to its attorneys in an attorney-client relationship, shall be deemed to be nonpublic until the RTC determines otherwise, in writing, or the information becomes part of the body of public information from a source other than the contractor.

(b) *Prohibitions.* The contractor and its related entities are prohibited from:

(1) Disclosing nonpublic information to anyone except as required to perform the contractor's obligations pursuant to the contract; and

(2) Using or allowing the use of any nonpublic information to further any private interest other than as contemplated by the contract.

(c) *Contractor's responsibility.* The contractor is required to take appropriate measures to ensure the confidentiality of nonpublic information and to prevent its inappropriate use. Such measures may include:

(1) Notifying all employees, related entities, subcontractors, and other persons to whom the contractor may need to disclose nonpublic information to perform its responsibilities under the contract of the requirement of confidentiality and limitations as to the use of nonpublic information; and

(2) Requiring each person to whom nonpublic information is provided to execute a certification that such person understands the limitations on disclosure and use and will maintain the confidentiality of the information and not use it other than as contemplated by the contract.

(d) The Corporation shall establish a recordkeeping system, which shall serve the purposes of the RTC with respect to the Privacy Act and the Free-

12 CFR Ch. XV (1-1-98 Edition)

dom of Information Act. Materials designated by the RTC shall be eligible for protection under applicable law.

§ 1506.12 Source selection information.

(a) *Prohibition.* During the conduct of any contractor selection process by the RTC, no person who is given authorized or obtains unauthorized access to source selection information regarding the contractor selection process shall knowingly disclose such information, directly or indirectly, to any person other than a person authorized to receive such information by the Executive Director of the Resolution Trust Corporation or his or her designee, the General Counsel of the FDIC or his or her designee, or the RTC's contracting officer.

(b) *Permitted disclosures.* The Executive Director of the Resolution Trust Corporation or his or her designee, the General Counsel of the FDIC or his or her designee, or the RTC's contracting officer, in accordance with internal procedures developed by the Corporation, may authorize persons or classes of persons to obtain access to proprietary or source selection information when access is essential to the contractor selection process.

§ 1506.13 Use of consultants.

(a) *Contingent fees.* Contractors are prohibited from obtaining the services of a consultant or advisor to assist in obtaining a contract with the RTC pursuant to an agreement in which payment of the consultant or advisor would be contingent on the contractor obtaining the contract.

(b) *Disclosure.* When submitting any bid, offer, or proposal to the RTC, a contractor shall include information about payments, agreements to pay or arrangements for obtaining the services (other than engineering, technical, legal, and accounting services) of consultants or advisors to assist in obtaining the contract that were made by the contractor or a related entity.

§ 1506.14 Use of information.

The RTC may utilize any information from any source, including information obtained under this part, in the contractor selection process.