

CITY OF SAN ANTONIO
CAPITAL IMPROVEMENTS MANAGEMENT
SERVICES DEPARTMENT
FOR THE
DEPARTMENT OF COMMUNITY INITIATIVES



REQUEST FOR QUALIFICATIONS
("RFQ")

DESIGN BUILD SERVICES
FOR
WEST END SENIOR CENTER SOLAR INSTALLATION PROJECT
Project Number 40-00240
(RFQ# CIMS 061311)
Revised June 27, 2011

ISSUE DATE: Monday, June 13, 2011
SUBMITTAL DEADLINE: Thursday, July 7, 2011, 3:00 P.M. Local Time

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I. BACKGROUND/OVERVIEW

The City of San Antonio (hereafter referred to as “City”), Capital Improvements Management Services Department (hereafter referred to as “CIMS”) is soliciting for the selection of a Design-Build (hereafter referred to as “DB” or “Respondent”) firm/team for the design, construction and installation of solar array and Photovoltaic (PV) systems at the West End Senior Center, located at 1226 Northwest 18th Street, San Antonio, Texas. The Respondent must utilize design and installation staff which either is certified as a PV Installer through the North American Board of Certified Energy Practitioners (NABCEP) or is in the process of becoming certified.

This program is funded by the Texas Comptroller of Public Accounts State Energy Conservation Office (SECO). The funds for this Project come, in whole or in part, from a grant made available through the American Recovery and Reinvestment Act of 2009 (hereafter referred to as “ARRA”). The Recovery Act’s purposes are to stimulate the economy and to create and retain jobs.

Statements of Qualifications (“SOQ”) are requested from qualified DB firms or teams in this first phase of a two-phase selection process. City intends to enter into a contract with a DB firm with experience in the design/build method of project delivery, experience with the design and installation of solar array and PV systems and which provides the best value for the City. The qualified DB firm will provide “turn-key” services for a completed project to include professional design conforming to all applicable criteria, complete construction services and follow-up work, as appropriate, and within a fixed cost, which will be developed by the DB Firm and accepted by the City of San Antonio.

This RFQ is the first phase of a two-phase solicitation process and provides information for interested parties to prepare and submit a response for consideration by the CIMS and the Department of Community Initiatives. Interested and qualified DB firms, which may demonstrate their ability to successfully complete the project, are invited to submit their qualifications statements. **Qualification Statements shall not include any information regarding respondent’s fees, pricing or other compensation. Such information will be solicited from firms qualified by the City to participate in the second phase of the solicitation process.**

II. DEFINITIONS

As used in this RFQ, the terms have the meanings set forth below:

- A. “Design-Build Contract” means a single contract, entered into with a firm or business entity, for the design and construction of the facility, based upon Owner’s Design Criteria documents prepared by the City of San Antonio.
- B. “Design-Build Firm” means a partnership, corporation or other legal entity or team, which includes an engineer or architect licensed to practice in the State of Texas and builder qualified to engage in building construction in Texas.
- C. “Owner” means the City of San Antonio
- D. “Successful Respondent” / ”Successful DB Firm” means the selected Design Build Team/Firm, business or corporation to whom contract is awarded pursuant to this RFQ.

- E. "Owners Design Criteria" means the information provided to the Design-Build Firm, which forms the design basis for the project. The Owners Design Criteria is any information which defines the expectations of the Owner and may include, but is not limited to, site information, facility programming, design standards & guidelines and required specifications.

III. BUY AMERICAN PROVISION

A. Use of Domestic Iron, Steel, and Manufactured Goods

Pursuant to Section 1605 of the ARRA, none of the funds appropriated or otherwise made available by the ARRA may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work, unless all of the iron, steel, and manufactured goods used in the project are produced or manufactured in the United States.

Production in the United States of the iron or steel used in the project requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. These requirements do not apply to iron or steel used as components or subcomponents of manufactured goods used in the project.

There is no requirement with regard to the origin of components or subcomponents in manufactured goods used in the project, as long as the manufacturing occurs in the United States.

B. Definitions

(1) **Manufactured good** means a good brought to the construction site for incorporation into the building or work which has been:

- (i) Processed into a specific form and shape; or
- (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) **Public building and public work** means a public building and a public work of a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) **Steel** means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

C. Waiver

The ARRA provides for waiver of the Buy American requirement under the following three (3) circumstances:

- (1) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
- (2) The inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or
- (3) Applying the domestic preference would be inconsistent with the public interest.

Only the Federal Government may grant a waiver. However, if you believe a waiver applies, kindly inform City's CIMS Contact Services Representative assigned to this solicitation, in writing, of the reason(s) you think City should seek a waiver. City is not under any obligation to seek a waiver from the Federal Government, and does not represent by this provision that it will do so. Therefore, you still are required to certify that the iron, steel or manufactured goods you are offering under this procurement meet the ARRA's Buy American requirements, or risk your offer being rejected.

D. International Agreements

(1) Section 1605(d) of the ARRA provides that the Buy American requirement shall be applied in a manner consistent with U.S. obligations under international agreements.

(2) Under the United States-European Communities Exchange of Letters (May 15, 1995), the City of San Antonio must grant to European Community ("EC") suppliers of goods and services, including construction services, treatment no less favorable than for out-of-city suppliers.

(3) EC member states include: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

(4) General Exceptions: The following restrictions and exceptions are excluded from U.S. obligations under international agreements:

- i. The restrictions attached to Federal funds to states for mass transit and highway projects;
- ii. Dredging.

E. Certification of Compliance with Buy American Provisions

By signing and submitting a contract in connection with this solicitation, the Respondent will certify that the iron, steel or manufactured goods you offer under this procurement meet the ARRA's Buy American requirements, or that the source of your materials or goods come from an EC member state. If your materials or goods come from an EC member state, you will be required to indicate the state as part of the contract documents.

IV. DAVIS-BACON ACT

Section 1606 of the Recovery Act requires the payment of not less than the prevailing wages under the Davis-Bacon Act to "all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act."

It is the responsibility of selected contractors/subcontractors to adhere to all Davis-Bacon Labor Standards. A full overview of these standards is provided by the Department of Labor online at <http://www.dol.gov/compliance/laws/comp-dbra.htm>.

Furthermore, the Provisions of Chapter 2258, Texas Government Code, are expressly made a part of this contract. In accordance therewith, the City will provide Contractor with the applicable Davis-Bacon wage determination, which details the prevailing wage rates and fringe benefits in this locality for each craft or type of workman needed to perform this contract, prior to the bidding of the Project. This wage determination will become a part hereof. The Contractor shall forfeit as a penalty to the City sixty dollars (\$60.00) for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by the contractor or any sub-contractor under him. The establishment of prevailing wage rates pursuant to Chapter 2258, Texas Government Code shall not be construed to relieve the Contractor from his obligation under any Federal or State Law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed hereunder. The Contractor, in the execution of this Project, agrees that he shall not discriminate in his employment practices against any person because of race, color, creed, sex or origin. The Contractor agrees that he/she will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age, handicap or political belief or affiliation. In addition, Contractor agrees that he/she will abide by all applicable terms and City "General Conditions" governing wages and labor standards and practices, established by City ordinance 2008-11-20-1045. A pre-construction conference with the contractor will be required prior to the start of construction.

The wage determination provided herein will be *locked-in* for the duration of the project provided the project is awarded within ninety (90) days of bid opening. If contract award occurs after ninety (90) days, the wage determination must be updated to reflect the most recent applicable wage determination.

V. JOB CREATION AND RETENTION

Pursuant to section 1512c of the ARRA, not later than five (5) days after the end each calendar quarter, if selected, Respondent must submit a report to City which contains an estimate of the number of jobs created and the number of jobs retained as a result of Respondent receiving ARRA funds pursuant to this contract. The report will include a brief description of the types of jobs created and jobs retained. This description may rely on job titles, broader labor categories, or Respondent's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work.

A. "Jobs created" means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the ARRA. This definition covers only prime contractor positions established in the United States and outlying areas. The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

B. "Jobs retained" means an estimate of those previously existing filled positions that are retained as a result of funding by the ARRA. This definition covers only prime contractor positions established in the United States and outlying areas. The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

C. "Outlying areas" means:

- (1) Commonwealths.
 - (i) Puerto Rico.
 - (ii) The Northern Mariana Islands;
- (2) Territories.
 - (i) American Samoa.
 - (ii) Guam.
 - (iii) U.S. Virgin Islands; and
- (3) Minor outlying islands.
 - (i) Baker Island.
 - (ii) Howland Island.
 - (iii) Jarvis Island.
 - (iv) Johnston Atoll.
 - (v) Kingman Reef.
 - (vi) Midway Islands.
 - (vii) Navassa Island.
 - (viii) Palmyra Atoll.
 - (ix) Wake Atoll.

VI. ACCESS TO DESIGN-BUILDER/CONTRACTOR RECORDS

Inspectors General, the Accountability and Transparency Board and the Government Accountability Office are granted authority to examine any records of the design-builder/contractor regarding ARRA transactions as required by ARRA Sections 902, 1514 and 1515. If selected, Respondent shall be required to acknowledge this requirement and agree to grant such access to these entities and City, if requested. If selected, Respondent shall maintain documentation of your purchases of materials or goods furnished hereunder that are sufficient to demonstrate that they are U.S.-made. If selected, Respondent must retain this documentation for the duration of this contract and for four (4) years after the expiration or termination of this contract. If selected, Respondent shall permit inspection and copying of such documents to these parties and City at no cost.

VII. ANTIDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS

All anti-discrimination and equal opportunity statutes, regulations and Executive Orders which apply to the expenditure of funds under Federal contracts, grants, cooperative agreements, loans and other forms of Federal assistance shall apply here. Respondent shall comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975. Generally applicable civil rights laws apply, including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans With Disabilities Act Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act and the Uniform Relocation Act. Respondent agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability.

VIII. PROJECT DESCRIPTION/SCOPE OF WORK

This section is intended to provide potential Respondents to this RFQ with a summary of information concerning the Project requirements, budget, scope and schedule, to ensure that Respondents understand City's basic expectations and to allow Respondent to submit its qualifications accordingly.

City is seeking to contract with a design-builder which will take the City provided Owner's Design Criteria and, under a single design-build contract, complete design documents, construction documents and perform all required construction/installation. Upon completion, the design-builder will deliver the completed operational facility or facilities to City.

The selected firm will ensure that City's Design Criteria are used to complete the design and to install solar arrays and PV systems.

A. Owner's Design Criteria

General Information:

These specifications cover the procurement of equipment, hardware, documentation, labor and supervision required for the installation of a grid-connected PV system or systems at either or both proposed locations, with the location(s) to be finalized at a later date.

1. The goal of this procurement is to obtain, subject to available space and funding, a system(s) composed of two arrays. The Senior Center's roof will allow for at least 10 KW (1,000 sqft) of solar panels, while the remaining 40 KW (4,000 sqft) will be installed atop a shaded parking structure. The two PV arrays, one at each proposed site, will total approximately 50 kW peak DC total capacity.
2. The system(s) shall be provided on a "turn-key" basis to City, with a 10-year maintenance agreement. Respondent shall provide energy production estimates/measurements with documentation supporting the calculations and energy savings. There will be no energy storage devices (e.g. batteries) used in this system(s).
3. Project(s) must include all major system components required to complete the system's design and installation. In addition, documentation on the design, configuration, installation, operation and maintenance of the complete system(s) must be included.
4. The system(s) must be designed for outdoor installation and operation in San Antonio, Texas. The area is subject to long-term high humidity and extreme temperature fluctuations and the system(s) must be able to withstand the exposure to such weather conditions. The system(s) shall be designed to handle expected ambient temperatures which range from 5 degrees Fahrenheit to 130 degrees Fahrenheit. Supplied equipment must be rated and warranted to withstand and operate under these conditions.
5. The electrical and structural design of this PV system(s) and its associated structure(s) shall be certified by Texas-registered Professional Engineer(s), who also shall certify that the installation is completed in a manner which fully is consistent with such design. The PV system(s) and supporting structure(s) shall be certified as being structurally sound enough to stand and serve all the structure's purposes for thirty (30) years by a Texas-registered Structural Professional Engineer.
6. The PV system(s) will be interconnected to the City's utility connection through grid interactive inverter(s).
7. Respondent should be aware of the following required licensing, documentation and procedural issues, prior to responding to this RFQ. These are listed as follows:
 - a. The successful Respondent or Respondent's Team shall include a state-licensed electrical contractor, electrical engineer and structural engineer.
 - b. The successful Respondent shall be responsible for coordinating and satisfying all questions from CPS Energy before, during and after installation.

- c. The successful Respondent may include any value-added services in its quotations, as long as said services are not bound to the mandatory portions of this specification.
8. The successful respondent will obtain all required permits.
9. A light-emitting diode system will be required, to ensure safety and security during darkness.

PV Module and Array Specifications:

1. The proposed PV modules specified must be eligible for the CPS Energy rebate and meet or exceed the appropriate UL/IEEE/IEC standards and the rated capacity, as calculated for peak DC output.
2. Each PV module shall be warranted by the manufacturer for at least eighty percent (80%) of its rated power for twenty (20) years from the date of system acceptance.

Other component specifications:

1. Respondent shall determine the inverter's compatible service in volts and specify the model and manufacturer of the inverter. Inverters shall be designed specifically for utility grid interconnection of photovoltaic arrays and be capable of automatic, continuous and stable operation over the range of voltages, currents and power levels for the size and type of array used.
2. Each inverter shall be compliant with the most recent revisions of UL standard 1741 and IEEE standards 1547 and 1547.1. The inverter(s) shall also comply with IEEE Std. 519 (Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems) and the latest applicable ANSI and FCC standards and addenda dated prior to the award of the contract for this procurement.
3. The inverter(s) must have an automatic visual indicator, showing whether the system is on-line and operating properly.
4. The inverter(s) must have at least a ten (10) year repair or replacement warranty from the manufacturer covering parts and labor.
5. The inverter(s), AC and DC disconnects, along with any other required electronics, shall be installed near the array(s), and shall be designed to withstand weather and possible vandalism.
6. The successful Respondent shall be asked to provide, as a part of the installation(s), a data monitoring system with a display accessible via the internet. As many options are available for these systems (e.g Fat Spaniel, SMA SunnyPortal, etc.), several system options may be considered. The successful Respondent shall be responsible for the communications wiring between the data monitoring system and the building's internet connection. Product details of the proposed data monitoring system shall be approved by City.

PV System Electrical Design:

1. The electrical design and installation instructions for the PV system shall confirm to the 2005 City Code 10-326, adopting the 2008 National Electric Code (NFPA 70-08). Article 690 of the NEC applies specifically to the photovoltaic system safety, protection, control and interface with other sources. Other articles of the NEC also apply.
2. All electrical components, including overcurrent protection, disconnect, surge suppression devices, conduit, wiring and terminals, must be UL listed or equivalent. Special attention shall be given to appropriate ratings for components used in DC circuits.
3. Respondent shall determine the number of volts and temperature rating (in wet locations) for minimum operation. Wiring and conduit shall be sunlight-resistant where required.
4. Ampacity calculations shall take into account appropriate de-ratings, as required. All conductors in the system are subject to a one hundred and twenty five percent (125%) de-rate for solar radiation enhancement. Appropriate temperature de-ratings for conductors used in module junction boxes shall be considered for peak module operating temperatures, as well as de-ratings for instances where more than three current-carrying conductors are enclosed in a conduit. Electrical enclosures (including the inverter) shall be shaded from direct sunlight wherever possible.
5. Total voltage drop in the system (including DC and AC) shall be no more than three percent (3%), including losses in conductors and through all fuses, blocking diodes and termination points.
6. Interconnection shall be made via a load-side connection per NEC 690.64(B) connecting to the electrical distribution system, as allowed by the facilities management personnel.
7. All overcurrent devices shall have trip ratings to greater than the de-rated ampacity of the conductors being protected.
8. Each series-connected string of modules shall include a series fuse, as required by UL and NEC, to prevent damage to wiring or other system components. Parallel connections of modules within individual source circuits are not permitted.
9. The inverters shall include array ground-fault protection devices, which must be capable of detecting array ground faults, shunting the fault current to ground and disabling the array until the fault has been cleared.
10. All terminations shall be listed as multi-contact, box terminal or compression type connections. Twist-on wire splices, crimped, soldered or taped connections are not permitted for the required field installed wiring. Proper torque specifications shall be provided for all of the required field connections.

11. All module frames, panel/array support structures, metal enclosures, panel board and the inverter cabinets shall be provided with connections for bonding to a common equipment grounding conductor, terminating at the utility service ground. Modules shall be grounded with tin-plated copper lay-in lugs rated for outdoor use.

12. In addition, provisions for grounding the neutral of the inverter output shall be provided. The DC ground conductor may be common to the AC neutral in the inverter design and, under no circumstances, should multiple connections to ground be specified for current-carrying conductors in the system.

13. Appropriate surge suppression devices shall be installed on both the DC and AC sides of the system.

14. Respondent shall provide a sealed electrical engineering design of the electrical interconnection and coordinate interconnection details with CPS Energy and Aviation staff. The Successful Respondent shall be responsible for the required interconnection paperwork with input from City. Respondent shall provide and install the wiring and conduit from the interconnection point through the CPS Energy accessible external AC disconnects. This includes the electrical meter base, which will measure the system's production and meter.

15. Loss of line: the inverter shall not operate without the line voltage present. The inverter restart shall occur automatically after restoration of line voltage and frequency for at least five (5) minutes.

PV Array Mechanical Design:

1. Respondent shall provide the mechanical hardware for mounting the photovoltaic arrays. Respondent shall provide all other hardware required for assembling the photovoltaic modules and panels and structurally attaching them to the ground-mount support.

2. The PV array including modules, hardware and attachments shall be designed to withstand the required wind loads and comply with all existing local and national codes. Verifying documentation shall be provided to City.

3. Array mounting hardware supplied by the Respondent shall be compatible with the site considerations and environment. Construction shall be in accordance with the design drawings supplied, in conjunction with the original proposal, and shall meet workmanship standards which shall ensure a high-quality appearance under both close and distant inspection. Special attention shall be paid to minimizing the risk from exposed fasteners, sharp edges and potential damage to the modules or support structure. Corrosion resistant and durability of the mechanical hardware shall be emphasized – the use of stainless steel fasteners and an aluminum support structure is preferred. Galvanic corrosion shall be avoided.

4. As this is intended to be a high profile, publicly visible installation, the aesthetics of the overall installation are extremely important to City. To create a uniform appearance of the array, spacing between individual modules and panels shall be kept to a minimum. As much as

possible, all mechanical hardware, conduit, junction boxes and other equipment shall be concealed.

5. The array layout shall be consistent with the ordering and labeling of source circuits in the array combiner boxes. Ease of access for array troubleshooting and maintenance is desired by allowing access to the back of the array for module junction box servicing and removal/replacement of individual source circuits and modules if necessary.

Information to be Provided by Successful Respondent to City, Before Project Completion:

1. Respondent shall provide two (2) complete copies of all installation, operations and maintenance manuals.

2. Respondent shall provide design, materials, installation and permitting price information. The materials information shall be broken down into three (3) categories: modules, inverters and other. These costs shall be the costs to City and not wholesale or distributor costs and shall be similar to those on the parts list referenced on Respondent's TAB G. In the case of packaged PV systems, the materials cost breakdown may not be possible, so the replacement cost of each component shall be listed along with the cost to any miscellaneous materials (e.g. wire, junction boxes, etc).

3. Respondent shall provide as-built diagrams indicating overall layout of entire system, including PV array(s) and location of BOS hardware and inverter with respect to the array(s).

4. Respondent shall provide a site survey of the intended array location(s), which shall be completed before the installation begins. This will help determine appropriate equipment locations and give all parties a better idea of the expected performance of the system(s).

5. The PV system design must be approved by City and CPS Energy.

6. Respondent shall provide City a copy of the interconnection agreement between the City and CPS Energy.

7. Respondent shall perform a sixty (60) day acceptance test on the system, once the installation is complete. This acceptance test performed by Respondent shall include measuring the short circuit currents and open circuit voltages on all source circuits, while measuring irradiance and module temperature. This test also shall include measuring the instantaneous DC input and AC output of the system, to determine its efficiency. These tests will be conducted in accordance with the test plan submitted as part of the original proposal.

8. Respondent shall provide a copy of the permit, obtained from the appropriate legal authority, for system installation.

9. Respondent shall provide a copy of the minimum one-year system warranty including parts and labor as well as individual subsystem component warranties.

10. Respondent acknowledges that an array and structural design certification sealed by a professional engineer licensed to practice in the State of Texas is required.

Project Funding and Budget:

This Project is funded by the Texas Comptroller of Public Accounts State Energy Conservation Office (hereafter referred to as “SECO”). Funds for this Project come, in whole or in part, from a grant made available through the ARRA. The Recovery Act’s purposes are ARRA’s purpose is to stimulate the economy and to create and retain jobs.

Project Timeline:

The Project timeline by contract shall be no more than four (4) months, with Notice to Proceed for Design anticipated early August 2011, with a project completion date in early December 2011. The Selected DB firm shall be responsible for scheduling design and construction to completion. Failure of the DB firm to notify City sufficiently in advance of its inability to complete the Project within the delivery schedule shall grant City the option of canceling the order, purchasing from the best available source and charging the originally selected DB firm the difference between the contract price and actual purchase, if any, plus cost of handling. Notwithstanding the foregoing, City shall have no obligation to accept late performance or to waive timely performance by DB firm. A provision for Liquidated Damages has been included in the Design-Build Contract (see the Contract Template, **Exhibit “B”**).

Owner Required Provisions:

ALL DESIGN-BUILD WORK SHALL BE IN ACCORDANCE WITH THE DESIGN-BUILD CONTRACT AND THE GENERAL CONDITIONS FOR CITY DESIGN-BUILD CONTRACTS (INCLUDED BY REFERENCE IN THIS RFQ).

A. Personnel: The selected DB firm team shall provide managers and properly trained and experienced personnel and administrative staff to ensure satisfactory performance under this contact.

B. Project Execution: Following the selection of a DB Firm, that firm’s engineers shall complete the design, utilizing City’s Design Criteria, submitting all design elements for review and determination of scope compliance to City at fifty percent (50%) and ninety-five percent (95%) completion, for review and approval prior to submitting for permit and before construction.

1. An engineer shall be licensed in the State of Texas and have the responsibility of ensuring compliance with all applicable engineering design requirements including, but not limited to, the requirements of the Texas Occupation Code, Title 6, Chapter 1001, and the Texas Administrative Code, Title 22, Part 6, Chapter 131.

2. City shall provide or contract for, independently of the DB Firm, inspection services, special inspection services, testing of construction materials and any verification testing services necessary for acceptance of the facility by City.
3. Follow-up work and service calls, deemed necessary to bring the completed facility into reliable and consistent service, shall be in accordance to Article 3 of the General Conditions for City of San Antonio Building Design Build Contracts.

Safety/Environmental Protection Programs:

Respondent shall establish and maintain, throughout the contract period, a viable safety program, in accordance with requirements of applicable regulatory authorities.

IX. TENTATIVE SCHEDULE FOR SELECTION PROCESS AND AWARD

- A. Final approval of a selected Respondent is subject to the action of the City of San Antonio City Council.
- B. Submittals may not be withdrawn within sixty (60) days from date on which submittals are received or opened.
- C. Submission of a response to this solicitation indicates Respondent’s acceptance of the evaluation technique and Respondent’s recognition that some subjective judgments must be made by the City during the evaluation.
- D. The following tentative schedule has been prepared for this project. Firms interested in this project must be available on the interview date.

SOQ Submittal Due Date:	July 7, 2011
Request for additional information to Short-listed Firms:	July 15, 2011
Deadline for Submission of Additional Information:	July 20, 2011
Anticipated City Council Approval of Contract Award:	August 2011

X. PRE-SUBMISSION CONFERENCE

A Pre-Submittal Conference will be held on **Tuesday, June 21, 2011 at 2:00 p.m.** at the **West End Senior Center, Dining Room, located at 1226 Northwest 18th Street, San Antonio, Texas 78207.** Respondents are encouraged to prepare and submit their questions in writing three

(3) calendar days in advance of the Pre-Submittal Conference in order to expedite the proceedings.

City's responses to questions received by this due date may be distributed at the Pre-Submittal Conference and posted on the City's website at <http://epay.sanantonio.gov/RFPListings/>. Attendance at the Pre-Submittal Conference is optional, but strongly encouraged.

This meeting place is accessible to disabled persons. The West End Senior Center Building is wheelchair accessible. Auxiliary aids and services are available upon request. Interpreters for the Deaf must be requested at least 48 hours prior to the meeting. For assistance, call (210) 207-7245 Voice/TTY.

Any oral responses provided by City staff at the Pre-Submittal Conference shall be preliminary. A written summary of the Pre-Submittal Conference shall contain official responses, if any. Any oral response given at the Pre-Submittal Conference that is not confirmed in the written summary of the Pre-Submittal Conference or by a subsequent addendum shall not be official or binding on the City. Only written responses shall be official and all other forms of communication with any officer, employee or agent of the City shall not be binding on the City.

XI. AMENDMENTS TO THE RFQ

Changes, amendments, or written responses to questions received in compliance with Section XIV, Restrictions on Communication may be posted on the City's website at <http://epay.sanantonio.gov/RFQListings/>. It is Respondent's responsibility to review this site and ascertain whether any amendments have been made prior to submission of qualifications. A Respondent who does not have access to the Internet, must notify the City in accordance with Section X, Restrictions on Communication, that Respondent wishes to receive copies of changes, amendments or written responses to questions by mail.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFQ. Changes to the RFQ, if any, will be made in writing only.

XII. RESTRICTION ON COMMUNICATION

A. Respondents are prohibited from communicating with: 1) elected City officials and their staff regarding the RFQ or Submittals from the time the RFQ has been released until the contract is posted as a City Council agenda item; and 2) City employees from the time the RFQ has been released until the contract is awarded. These restrictions extend to "thank you" letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFP and/or Respondents' Submittals. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent's from consideration.

Exceptions to the Restrictions on Communication with City employees include:

1. Respondents may submit written questions concerning this RFQ to the Staff Contact Person listed in the address below until Friday, June 24, 2011; 4:00 pm, Local Time.

Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by email or by fax to:

Elvia Fernandez, Contracts Division Management Analyst
City of San Antonio, Capital Improvements Managements Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

E-mail: Elvia.Fernandez@sanantonio.gov
Fax: (210) 207-5859

However, questions sent by certified mail, return receipt requested, also will be accepted and should be addressed to:

Elvia Fernandez, Contracts Division Management Analyst
City of San Antonio, Capital Improvements Managements Services Department
P.O. Box 839966
San Antonio, TX 78283-3966

Questions submitted and City's responses will be posted in the form of an Addendum to City's web site at <http://epay.sanantonio.gov/RFPListings/>.

2. Technical questions, regarding issues with the City's internet or accessibility of forms, will be accepted via telephone at:

Elvia Fernandez, Contracts Division Management Analyst
Phone: (210) 207-4033

3. Respondents and/or their agents are encouraged to contact the Small Business Outreach Office of the Economic Development Department for assistance or clarification with issues specifically related to City's Small Business Economic Development Advocacy Program policy and/or completion of the required forms. The point of contact is Ms. Brenda Navarro. Ms. Navarro may be reached by telephone at (210) 207-5442 or by e-mail at brenda.navarro@sanantonio.gov. Contacting Ms. Navarro or her office, regarding this solicitation process after the RFQ submittal due date, is not permitted.
4. Respondents may provide responses to questions asked of them by the Staff Contact Person after responses are received and opened. During interviews, verbal questions and explanations will be permitted. Respondents shall not bring lobbyists to interviews. City reserves the right to exclude any persons from such interviews as it deems in its best interests.
5. Upon completion of both phases of the solicitation process, Respondents shall receive a notification letter indicating the recommended firm and anticipated City Council agenda date. Respondents desiring a review of the solicitation process may submit a written request to the CIMS Department Director no later than seven (7) calendar days from the date letter was sent.

B. City reserves the right to contact any Respondent to negotiate, if such is deemed desirable by City.

XIII. SELECTION PROCESS AND EVALUATION CRITERIA

Experience will be a significant factor in the selection process. Respondent's personnel, particularly its Project Manager, thoroughly must be experienced in projects comparable to the subject Project. Respondent's personnel must have a demonstrated and thorough understanding of and experience in solar array system project delivery through recently built projects.

This RFQ is part of a two-part solicitation process. City will appoint a selection committee to perform evaluations. The selection committee will conduct a comprehensive, fair and impartial evaluation of all Statements of Qualifications received in response to this RFQ and shall rank each Submittal received in response to this RFQ, based on individual qualifications. Based on the evaluation process, the selection committee may qualify a maximum of five (5) Respondents to participate in Phase Two of the solicitation process.

During the second phase of the solicitation process, the short-listed Respondents will be requested to provide a detailed Cost Proposal and also be requested to provide additional information about Respondent which the selection committee deems appropriate.

During the second phase of the solicitation process, the selection committee will evaluate and rank the short-listed firms' submittals, based on the evaluation criteria set forth in this RFQ, which shall include evaluation of the Price Proposals and any other additional information as has been requested.

City reserves the right to request additional information from Respondents at any time prior to final approval of a selected Respondent.

City will consider the background, experience, qualifications and capability of the DB firm/team to provide complete contract documents, as well as Respondent's project understanding and approach and management plan. Respondents shall provide information regarding specific quality experience with projects of a similar nature and as per the following:

A. Background, Experience and Qualifications of Design-Build Team:

1. **Project Sheets:** Discuss the background and past performance, experience and qualifications of the DB Team in providing the services, as outlined in this RFQ. Utilizing a project sheet for each, identify at least five (5) comparable design-build projects completed within the last three (3) years by the DB firm/team, preferably which includes at least two projects undertaken with a Fixed Budget Contract. For each highlighted project, the project sheet should include the following:

- 1) Description of the project;
- 2) Photograph of project;

- 3) Type of Contract (Design-Bid-Build; Design-Build; Construction Manager At Risk, etc.);
- 4) Role of Design Build Firm on the project;
- 5) Name of Design Firm and/or Licensed Professional Architect and Engineer (note whether this person will work on this proposed project and his/her role planned for this project)
- 6) Project's original contract amount and final contract amount;
- 7) Contract substantial completion date and date of actual substantial completion and explain inconsistencies;
- 8) Project Manager (note whether this person will work on this proposed project and his/her role planned for this project)
- 9) Project Superintendent; (note whether this person will work on this proposed project and his/her role planned for this project)
- 10) The owner's name and the name of the representative (if different) who served as the day-to-day liaison the construction phase of the project in the following format:
 Name of Owner: _____
 Name of Owner's Representative: _____
 Representative's Phone Number: _____
 Representative's E-mail: _____

2. **Proposed Key Personnel** - Provide a detailed organizational chart or graphic representation of your firm, identifying key personnel who might be assigned to work on the various tasks assigned through this Project (indexed as Tab "7" in the submittal). Describe, in graphic representation, the proposed assignments, along with the lines of authority and communication, for each team member who will be directly involved in the project(s).

- 1) Licensed Professionals: Identify each of the Licensed Professional Engineers – number of years licensed, number of years in business employed by, or as a principle in, a professional firm.
- 2) Project Manager: Identify the Project Manager, number of years of similar project management experience (including previous employment), number of years employed with Respondent's firm.
- 3) Project Superintendent: Identify the proposed job Project Superintendent, number of years functioning as a project superintendent (including previous employment), number of years employed with this Respondent's firm.
- 4) Identify all proposed team members (including consultants) who worked on the Projects listed on the Project Sheets requested in the Evaluation Criteria, Section XI.A1. of this RFQ (above), and describe their responsibility in those projects compared to this project.
- 5) Identify any consultants which are included as part of the proposed team, their role and related experience for this Project. List all projects for which the

consultant(s) has worked with the respondent in the past. Identify any projects on which the consultant(s) has worked which are listed on the Project Sheets requested in the Evaluation Criteria, Section XI.A1. of this RFQ (above), and describe their responsibility in those projects compared to this Project.

Provide the resumes of the Key Personnel for this contract, (indexed as Tab “8” in the submittal).

Resumes shall include:

- License type (if applicable) and number of years licensed
- Number of years employed with the DB Firm
- Number of years of experience in proposed role
- Experience with the use of BIM technology in delivery of previous construction projects (particularly identify if any were those projects included in the project sheets)

B. Project Understanding, Approach/Management Plan:

This information should include the DB firm’s proposed organizational structure and the availability of labor resources (capacity to perform) in executing the DB effort. The DB firm shall submit information in a brief narrative plan that clearly and concisely describes the organization and approach to project management and execution.

- 1) Briefly describe your DB firms’/teams’ understanding of this project type, including all of the requirements to successfully complete the project. Provide the approach of your DB firm and/or team partner(s) in meeting those requirements, and comprehensively address all the issues, standards and requirements needed to produce a finished project.
- 2) Provide a statement on the availability and commitment of the Prime Firm, its principal(s) and professionals assigned to undertake the project.
- 3) Provide a detailed organizational chart or graphic representation of the proposed team identifying key personnel (indexed as Tab “7” in the submittal). Describe, in graphic and written form, the proposed Project assignments and lines of authority and communication for each team member to be directly involved in the Project. Indicate the estimated percent of time these team members will be involved in the Project for Design and Construction Services. Affirm that the individuals identified will be committed for the entire duration of the project.
- 4) As a principal goal and priority of the assistance extended under ARRA funding, this Project is to promote job creation and/ or job preservation. In your proposal, demonstrate how Respondent’s business plan will:

- Preserve and/or create jobs and promote economic recovery;
 - Maximize job creation and economic benefit;
 - Be commenced as quickly as possible consistent with prudent management.
 - Track, measure, and report on the recipient's progress towards achieving the Recovery Act priorities.
- 5) Describe Respondent's Quality Control Process and approach, corporate systems and capabilities to maintain quality control of the design and construction/installation. Describe the proposed quality control organization and participation of the Engineer of Record and Contractor of Record, including proposed staffing plan.
 - 6) Briefly describe Respondent's approach for anticipating, recognizing and controlling safety risks and note the safety resources that the firm provides for each project's Safety program.
 - 7) Describe how Respondent will develop, maintain and update the project schedule during design and construction to coordinate with City's project schedule. Describe the way in which Respondent develops and maintains work schedules to coordinate with City's project schedule. For any combination of three (3) projects listed in response to the Evaluation Criteria, Section XI.A1. of this RFQ (above), provide examples of how these techniques were used.
 - 8) Describe Respondent's to assuring timely completion of this project, including methods for schedule recovery, if necessary. From any three (3) of the projects listed in response to the Evaluation Criteria, Section XI.A1. of this RFQ (above), provide examples of how these techniques were used, including specific scheduling challenges/requirements and actual solutions.
 - 9) Describe how Respondent develops and maintains work schedules during design and construction to coordinate with City's project schedule. From any of three (3) projects listed in response to the Evaluation Criteria, Section XI.A1. of this RFQ (above), provide examples of how these techniques were used.
 - 10) Describe Respondent's quality assurance program. Explain the methods used to ensure quality control during the development of Construction Documents and during the Construction phase of a project. Provide specific examples of how these techniques or procedures were used from any three (3) projects listed in Respondent's response to the Evaluation Criteria, Section XI.A1. of this RFQ (above).

C. Team's Experience with City of San Antonio and City of San Antonio Issues

City is interested in evaluating Respondents' (including sub-consultants) experience with San Antonio issues, as may be evidenced by previous work in the San Antonio and surrounding area during the past five (5) years. Briefly describe experience in the following areas and reference projects relating to that experience:

- Environmental community, conditions and constraints;
- Public awareness and involvement in project development in the local area;
- Experience with projects of local significance and coordination with relevant agencies; and
- Construction costs and practices with the local market

The scoring for this criteria may be based on City’s Consultants’ and Contractor Scorecard, other documentation or experience with City projects. City will consider the history of Respondent’s firm in complying with project programs, schedules and budgets on previous **City of San Antonio** projects.

Specific items for consideration may include:

- Timely completion of projects;
- Cooperative working relationship with City;
- Prompt payment of subconsultants at all levels;
- Compliance with other contract terms;
- Compliance with City Ordinances on substitution/addition/deletion of subconsultants/subcontractors;
- Provided contracting opportunities for small businesses and M/WBEs;
- Compliance with City standards;
- Conformance to City budget requirements.

The subtotal of all possible points that can be awarded for Phase One for items A through C above is 100 points, as set out in the table below.

TOTAL MAXIMUM = 100 POINTS.

Evaluation Criteria Summary:	Weighting Phase One Selection:	Weighting Phase Two Selection:
A. Background, Experience and Qualifications of Design-Build Team	Maximum 40 Points	N/A
B. Project Approach/Management Plan	Maximum 40 Points	Maximum 40 Points
C. Team’s Experience with City of San Antonio Issues	Maximum 20 Points	Maximum 20 Points
D. Guaranteed Maximum Price	N/A	Maximum 40 Points
Total Maximum	100 Points	100 Points

XIV. SUBMITTAL DOCUMENT REQUIREMENTS – PHASE ONE OF THE SOLICITATION

Respondent's Submittal should include the required items in the following sequence:

- A. EXECUTIVE SUMMARY - Respondents shall include a one (1) to two (2) page Executive Summary for the SOQ. The Summary shall include a statement of how the DB firm intends to use the design/build method, utilizing City's Design Criteria, to deliver, accomplish and perform each specific service for the delivery of the Project.
- B. SUBMITTAL COVER/SIGNATURE SHEET - (Form #1 to this RFQ): Respondent shall complete, sign and include the Submittal Cover/Signature Sheet with the Submittal. The Submittal Cover/Signature Sheet shall be signed by a person, or persons, authorized to bind the entity/entities submitting the response. Submittals signed by a person other than an officer of the company or partner of the firm shall be accompanied by evidence of authority. Joint ventures require signatures from all firms participating in the joint venture. Joint ventures are required to provide legal proof of the joint venture, such as a joint venture Agreement, as an attachment to their Submittal. The Cover Page/Signature Sheet shall be indexed or labeled as Tab "1" in the submittal.
- C. SUBMITTAL CHECKLIST (Form #2 to this RFQ): Respondent shall complete and utilize this form that shall be used as the Table of Contents for the DB firm/team's Submittal. The Submittal Checklist shall be indexed or labeled as Tab "2" in the submittal.
- D. DISCRETIONARY CONTRACTS DISCLOSURE FORM (Form #3 in this RFQ): All proposed parties to the Contract with the City shall complete and return this form with the Submission. Co-Respondents are two (2) or more entities proposing as a team or joint venture, with each signing the Contract, if awarded. This form shall be indexed or labeled as Tab "3" in the submittal in its ORIGINAL SUBMITTAL ONLY.
- E. LITIGATION DISCLOSURE FORM (Form #4 in this RFQ): Respondent shall include a completed Litigation Disclosure form, as found in RFQ Attachment 4, using additional pages for explanation, if necessary. This Litigation Disclosure Form shall be indexed or labeled as Tab "4" in the submittal.
- F. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY [SBEDA] (Form #5 in this RFQ): Respondent shall include a completed SBEDA Program Commitment Form, found in RFQ Required Forms. This SBEDA Form shall be indexed or labeled as Tab "5" in Submittal.
- G. STATEMENT OF QUALIFICATIONS: The Respondent's SOQ shall be submitted in narrative form and shall cover all items included in Section XIII. This section is limited to thirteen (13) pages, not including forms, attachments or tabs (if blank). This Statement of Qualifications shall be indexed or labeled as Tab "6" in the submittal.
- H. TEAM ORGANIZATIONAL CHART: Respondent shall provide a detailed organizational chart or graphic representation of the proposed team, identifying key

personnel, as requested in Section XIII of the RFQ. This Organizational Chart shall be indexed or labeled as Tab “7” in the submittal.

- I. **RESUMES:** Respondent shall include resumes for each key team member and each resume shall be limited to a maximum length of two (2) pages (no company information.) Resumes shall be indexed or labeled as Tab “8” in the submittal.
- J. **PROOF OF BONDABILITY AND INSURABILITY:** Respondent shall submit a letter from insurance provider stating provider’s commitment to insure Respondent for the types of coverages and at the levels specified in the attached General Conditions for City of San Antonio Building Design Build Contracts (RFQ Exhibit A), if awarded a contract in response to this solicitation process. Respondent also shall submit a copy of its current insurance certificate. Respondent also shall submit a letter of intent from its bonding company stating, in specific terms, that the bonding company (Surety) is prepared to issue both payment and performance bonds to the full value of the proposal tendered for this specific Project. This Proof of Bondability and Insurability shall be indexed and labeled as Tab “9” in the submittal.
- L. **LETTERS OF REFERENCE:** Respondent must provide a maximum of 5 (five) letters of reference. These Letters of Reference shall be indexed and labeled as Tab “10” in the submittal.

Respondent is expected to examine this RFQ carefully, and understand the terms and conditions for providing the services listed herein and respond completely. Failure to complete and provide any of the above-referenced documents may result in the Respondent’s Submittal being deemed non-responsive and, therefore, disqualified from consideration.

XV. SUBMISSION INSTRUCTIONS – PHASE ONE OF THE SOLICITATION

When submitting a bid, proposal or SOQ in person, visitors to City Hall must allow time for security measures. Visitors to City Hall will be required to enter through the east side of the building. The public will pass through a metal detector and x-ray machine located in the lobby. All packages, purses and carried items will be scanned during regular business hours of 7 a.m. to 7 p.m. After the public proceeds through the metal detector, they will sign in and receive a visitor’s badge. For those who might require the use of a ramp, entry is available on the south side of the building (Dolorosa side). Security will meet the visitor in the basement with a hand scanner.

Interested firms should submit its Statements of Qualifications, which will include a one (1) page Executive Summary plus a maximum length of thirteen (13) pages, using not less than 12 point font, to address the RFQ evaluation criteria (excluding required forms and attachments identified in this RFQ) and shall submit one (1) original, signed in ink, seven (7) bound copies, and one (1) compact disc (CD) which will contain a copy of the entire SOQ in Adobe PDF format in a sealed package clearly marked with the project name, “**Design Build Services for West End Senior Center Solar Installation Project**” on the front of the package. All Submittals must be

received in the City Clerk's Office no later than **3:00 P.M. Local Time, on July 7, 2011** at the address listed below. Submittals which are delivered to the City prior to the above time and date may be modified by Respondent, provided such modifications are sealed and received by the City Clerk's Office prior to the time and date set for the deadline for the receipt of Submittals. Any Submittal or modification received after this time shall not be considered and will be returned unopened to Respondent. Respondents should note that delivery to the P.O. Box address in a timely manner does not guarantee its receipt in the City Clerk's office by the deadline for submission. Therefore, Respondents should strive for early submission to avoid the possibility of rejection for late arrival.

Mailing Address: City Clerk's Office,
Capital Improvements Management Services Department
Attention: Contract Services Division
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address: City Clerk's Office
Capital Improvements Management Services Department
Attention: Contract Services Division
100 Military Plaza 2nd Floor
San Antonio, Texas 78205

Submittals sent by facsimile or email will not be accepted.

- B. Adherence to the maximum page criterion is critical; each page side (maximum 8 1/2" x 11") with criteria information will be counted. Pages which have project photos, charts and/or graphs will be counted towards the maximum number of pages. Front and back covers, Table of Contents pages and tabbed divider pages will not be counted if they do not contain Submittal information. Resumes should not include project pictures or general firm information. The use of recycled paper is encouraged. Three-ring binders are permitted. With regards to other types of binding, plastic (not metal) spiral (or "comb" binding) is recommended. Plastic sheet or "report" covers are not encouraged, card-stock covers are sufficient. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials, beyond that sufficient to present a complete and effective submission, are not encouraged or required. Font size shall be no less than 12-point type. All pages shall be numbered. Margins shall be no less than 1" around the perimeter of each page. Electronic files, websites or URLs shall not be included as part of the Submittal, other than the CD as specified and required above. Each Submittal must include the sections and attachments in the sequence listed in the RFQ Section VIII, Submittal Document Requirements, and each section must be divided by tabs and indexed in the Submittal Checklist and Table of Contents page. Failure to meet the above conditions may result in disqualification of the Submittal.
- C. Respondents which submit a SOQ, in response to this RFQ, shall correctly reveal, disclose and state the true and correct name of the individual, proprietorship, corporation, and/or partnership (clearly identifying the responsible general partner and all other partners who would be associated with the Contract, if any). No nicknames, abbreviations (unless part of

the legal title), shortened or shorthand, or local "handles" will be accepted in lieu of the full, true and correct legal name of the entity. These names shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings. Corporate Respondents and limited liability company Respondents shall include their 11-digit Texas Comptroller's Taxpayer Number or 9-digit Internal Revenue Service Taxpayer number on the Signature Page.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the Signature Page, the Director of the Capital Improvements Management Services Department shall have the discretion, at any point in the Contracting process, to suspend consideration of the Respondent's Submittal.

XVI, SBEDA ORDINANCE COMPLIANCE PROVISIONS

A. Solicitation Response, Commitment and Contract Requirements

Respondent understands and agrees that the following provisions shall be requirements of this solicitation and the resulting contract, if awarded, and by submitting its Response, Respondent commits to comply with these requirements. During the first phase of this solicitation, absent a waiver granted by the SBO, failure of a Prime Contractor to submit a completed Subcontractor/Supplier Utilization Commitment form in its response shall render its response NON-RESPONSIVE. During the second phase of this solicitation, if a Respondent is invited to submit a price proposal, absent a waiver granted by the SBO, failure of a Respondent to include a fully-documented and signed SBO-promulgated Subcontractor/Supplier Utilization Plan satisfying the SBE subcontracting goal shall render its response NON-RESPONSIVE.

Waiver Request - A Respondent may request, for good cause, a full or partial Waiver of a **specified subcontracting goal** included in this solicitation by submitting the *Respondent Subcontracting Waiver Request* form (*which is available at <http://www.sanantonio.gov/edd/SmallBusiness>*) with its solicitation response. The Respondent's Waiver request must fully document subcontractor unavailability despite the Respondent's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by Respondent including, but not limited to, which subcontractors were contacted (with phone numbers, e-mail addresses and mailing addresses, as applicable) and the method of contact. **Late Waiver requests will not be considered.**

Exception Request - A Respondent may, for good cause, request an Exception to the application of the SBEDA Program if the Respondent submits the *Exception to SBEDA Program Requirements Request* form (*available at <http://www.sanantonio.gov/edd/SmallBusiness>*) with its solicitation response. The Respondent's Exception request must fully document why: (1) the value of the contract is below the \$50,000 threshold for application of the SBEDA Program; or (2) no commercially-useful subcontracting opportunities exist within the contract scope of work; or (3) the type of contract is outside of the scope of the SBEDA Ordinance. **Late Exception Requests will not be considered.**

B. SBEDA Program

The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531, also referred to as “SBEDA” or “the SBEDA Program”), which is posted on the City’s International and Economic Development (IEDD) website page and is also available in hard copy form upon request to the CITY. The SBEDA Ordinance Compliance Provisions contained in this section of the agreement are governed by the terms of this Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by the CITY pursuant to this Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this agreement. Unless defined in a contrary manner herein, terms used in this section of the agreement shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

C. Definitions

Affirmative Procurement Initiatives (API) – Refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise (“S/M/WBE”) Program tools and Solicitation Incentives that are used to encourage greater Prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance.)

Certification or “Certified” – the process by which the Small Business Office (SBO) staff determines a firm to be a bona-fide small, minority-, women-owned, or emerging small business enterprise. Emerging Small Business Enterprises (ESBEs) are automatically eligible for Certification as SBEs. Any firm may apply for multiple Certifications that cover each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, the City accepts any firm that is certified by local government entities and other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

Commercially Useful Function – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of

an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by CONTRACTOR to perform such “pass-through” or “conduit” functions that are not commercially useful shall be viewed by the CITY as fraudulent if CONTRACTOR attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE subcontractor or joint venture partner towards attainment of S/M/WBE utilization goals, and the CONTRACTOR and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

Good Faith Efforts – documentation of the CONTRACTOR’s or Respondent’s intent to comply with S/M/WBE Program Goals and procedures including, but not limited to, the following: (1) documentation within a solicitation response reflecting the Respondent’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on the City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor’s posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Respondent; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors.) The appropriate form and content of CONTRACTOR’s Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

HUBZone Firm – a business that has been certified by U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet the following criteria: (1) it must be owned and Controlled by U.S. citizens; (2) at least 35 percent of its employees must reside in a HUBZone; and (3) its Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

Independently Owned and Operated – ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

Individual – an adult person that is of legal majority age.

Industry Categories – procurement groupings for the City of San Antonio inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services, and Goods & Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term may sometimes be referred to as “business categories.”

Originating Department – the CITY department or authorized representative of the CITY which issues solicitations or for which a solicitation is issued.

Payment – dollars actually paid to CONTRACTORS and/or Subcontractors and vendors for CITY contracted goods and/or services.

Prime Contractor – the vendor or contractor to whom a purchase order or contract is issued by the City of San Antonio for purposes of providing goods or services for the City. For purposes of this agreement, this term refers to the CONTRACTOR.

Relevant Marketplace – the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the MGT Studies, and for determining eligibility for participation under various programs established by the SBEDA Ordinance, is defined as the San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

Respondent – a vendor submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by the City. For purposes of this agreement, CONTRACTOR is the Respondent.

Responsible – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

San Antonio Metropolitan Statistical Area (SAMSA) – also known as the Relevant Marketplace, the geographic market area from which the CITY’s MGT Studies analyzed contract utilization and availability data for disparity (currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

SBE Directory - a listing of small businesses that have been certified for participation in the City's SBE Program APIs.

SBE Subcontracting Program – an API in which Prime Contractors or vendors are required to make Good Faith Efforts to subcontract a specified percentage of the value of prime contract dollars to certified SBE firms. Such subcontracting goals may be set and applied by the GSC on a contract-by-contract basis to those types of contracts that provide subcontract opportunities for performing Commercially Useful Functions wherein there have been ongoing disparities in the utilization of available SBE Subcontractors.

When specified by the GSC, the SBE Subcontracting Plan or Good Faith Efforts plan submitted by CONTRACTOR may also be required to reflect Good Faith Efforts that a Prime Contractor or

vendor has taken (or commits to taking in the case of solicitations that do not include a detailed scope of work or those in which price cannot be considered a factor in evaluation), toward attainment of subcontracting goals for SBE firms.

Significant Business Presence – to qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the eight counties that make up the San Antonio Metropolitan Statistical Area (SAMSA), from which 20% of its full-time, part-time and contract employees are regularly based, and from which a substantial role in the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

Small Business Enterprise (SBE) – a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is Independently Owned and Operated by Individuals legally residing in, or that are citizens of, the United States or its territories, and which meets the U.S. Small Business Administration (SBA) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements as defined herein.

Small Business Office (SBO) – the office within the International and Economic Development Department (IEDD) of the CITY that is primarily responsible for general oversight and administration of the S/M/WBE Program.

Small Business Office Manager – the Assistant Director of the IEDD of the CITY that is responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager is also responsible for enforcement of contractor and vendor compliance with contract participation requirements, and ensuring that overall Program goals and objectives are met.

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor or CONTRACTOR in furtherance of the Prime Contractor's performance under a contract or purchase order with the City. A copy of each binding agreement between the CONTRACTOR and its subcontractors shall be submitted to the CITY prior to execution of this contract agreement and any contract modification agreement.

Suspension – the temporary stoppage of the SBE or M/WBE firm's beneficial participation in the CITY's S/M/WBE Program for a finite period of time due to cumulative contract payments the S/M/WBE firm received during a fiscal year that exceed a certain dollar threshold as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance, or the temporary stoppage of CONTRACTOR's and/or S/M/WBE firm's performance and payment under CITY contracts due to the CITY's imposition of Penalties and Sanctions set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

Subcontractor/Supplier Utilization Plan – a binding part of this contract agreement which states the CONTRACTOR's commitment for the use of Joint Venture Partners and / or Subcontractors/Suppliers in the performance of this contract agreement, and states the name, scope of work, and dollar value of work to be performed by each of CONTRACTOR's Joint

Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, of dollar values of work to be performed requires an amendment to this agreement to be approved by the IEDD Director or designee.

D. SBEDA Program Compliance – General Provisions

As CONTRACTOR acknowledges that the terms of the CITY's SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in the CITY's SBEDA Policy & Procedure Manual are in furtherance of the CITY's efforts at economic inclusion and, moreover, that such terms are part of CONTRACTOR's scope of work as referenced in the CITY's formal solicitation that formed the basis for contract award and subsequent execution of this Agreement, these SBEDA Ordinance requirements, guidelines, and procedures are hereby incorporated by reference into this Agreement, and are considered by the parties to this Agreement to be material terms. CONTRACTOR voluntarily agrees to fully comply with these SBEDA program terms as a condition for being awarded this contract by the CITY. Without limitation, CONTRACTOR further agrees to the following terms as part of its contract compliance responsibilities under the SBEDA Program:

1. CONTRACTOR shall cooperate fully with the Small Business Office and other CITY departments in their data collection and monitoring efforts regarding CONTRACTOR's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its Subcontractors with this term;
2. CONTRACTOR shall cooperate fully with any CITY or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of CONTRACTOR or its Subcontractors or suppliers;
3. CONTRACTOR shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;
4. CONTRACTOR shall immediately notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to CONTRACTOR's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by CONTRACTOR to

replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by CONTRACTOR of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.

5. CONTRACTOR shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the CITY, as well as any transfer or change in its ownership or business structure.
6. CONTRACTOR shall retain all records of its Subcontractor payments for this contract for a minimum of four years, or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years, or as required by state law, following the final determination of litigation, whichever is later.
7. In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a CONTRACTOR's Subcontractor / Supplier Utilization Plan, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE or HUBZone subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the CONTRACTOR and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

E. SBEDA Program Compliance – Affirmative Procurement Initiatives

The CITY has applied the following contract-specific Affirmative Procurement Initiative to this contract. CONTRACTOR hereby acknowledges and agrees that the selected API requirement shall also be extended to any change order or subsequent contract modification, and absent SBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

SBE Subcontracting Program. In accordance with SBEDA Ordinance Section III. D. 3. (a), this contract is being awarded pursuant to the SBE Subcontracting Program. CONTRACTOR agrees to subcontract at least **20%** of its prime contract value to certified SBE firms headquartered or have a significant business presence within the San Antonio Metropolitan Statistical Area (SAMSA). The Subcontractor / Supplier Utilization Plan that CONTRACTOR submitted to CITY with its response for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified SBE Subcontractors to be used by CONTRACTOR on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each SBE Subcontractor, and documentation including a description of each SBE Subcontractor's scope of work and confirmation of each SBE Subcontractor's commitment to perform such scope of work

for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the SBO, the failure of CONTRACTOR to attain this subcontracting goal for SBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the CITY, and may result in debarment from performing future CITY contracts, withholding of payment for retainage equal to the dollar amount of the underutilization below the agreed upon SBE subcontracting goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law.

F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this agreement, the CONTRACTOR represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the CITY's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, CONTRACTOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the CITY's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in CITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. CONTRACTOR's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the CITY pursuant to the solicitation for this contract is hereby incorporated into the material terms of this Agreement. CONTRACTOR shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to CITY contracts.

G. Prompt Payment

Upon execution of this contract by CONTRACTOR, CONTRACTOR shall be required to submit to CITY accurate progress payment information with each invoice regarding each of its Subcontractors, including HUBZone Subcontractors, to ensure that the CONTRACTOR's reported subcontract participation is accurate. CONTRACTOR shall pay its Subcontractors in compliance with Chapter 2251, Texas Government Code (the "Prompt Payment Act") within ten days of receipt of payment from CITY. In the event of CONTRACTOR's noncompliance with these prompt payment provisions, no final retainage on the Prime Contract shall be released to CONTRACTOR, and no new CITY contracts shall be issued to the CONTRACTOR until the CITY's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

E. Violations, Sanctions and Penalties

In addition to the above terms, CONTRACTOR acknowledges and agrees that it is a violation of the SBEDA Ordinance and a material breach of this Agreement to:

1. Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefiting from the SBEDA Ordinance;
2. Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;
3. Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
4. Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
5. Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

Any person who violates the provisions of this section shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions, and remedies available under law, including but not limited to:

1. Suspension of contract;
2. Withholding of funds;
3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;
4. Refusal to accept a response or proposal; and
5. Disqualification of CONTRACTOR or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

XVII. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

It is the intent of City award a Contract to the DB firm/team which provides services at the best value for City, as determined when considering the relative importance of price, capability and other evaluation factors included in this RFQ and the second phase of the solicitation process. City reserves the right to adopt the most advantageous interpretation of the SOQ, additional information presented and the subsequent Price Proposals. In the case of ambiguity or lack of clearness in stating the proposal prices, City reserves the right to reject any or all SOQs and subsequent Price Proposals, and/or waive formalities. City is not bound to accept the lowest priced Proposal if that Price Proposal is not in the best interest of City, as determined by City.

Each SOQ, additional information requested and subsequent solicited Price Proposal will be analyzed to determine overall responsiveness and a combination of price and other factors that City determines will provide the best value to City.

- A. A Contract or Contracts, if awarded, will be awarded to the DB firm/team whose Submittal(s) is deemed most qualified to City, as determined by the selection committee, and subject to approval of the City Council.
- B. City may accept any Submittal in whole or in part. If subsequent negotiations are conducted, negotiations shall not constitute a rejection or alternate solicitation on the part of City. However, final selection of a DB firm/team is subject to City Council approval.
- C. City reserves the right to accept one or more Submittals or reject any or all Submittals received in response to this RFQ and the subsequent interview process, and to waive informalities and irregularities in the Submittals received. City also reserves the right to terminate this solicitation, reissue a subsequent solicitation and/or remedy technical errors in the process.
- D. City will require the selected DB firm/team to execute a Contract with the City in substantially the form as attached, prior to City Council award. No work shall commence until City signs the Contract document(s) and Respondent provides the necessary evidence of insurance as required in the Contract. Contract documents are not binding on City until approved by the City Attorney.
- E. In the event the parties cannot negotiate and execute a Contract within the time specified by City, City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.
- F. This solicitation does not commit City to enter into a Contract, award any services related to this solicitation, nor does it obligate City to pay any costs incurred in preparation or submission of a response or in anticipation of a Contract.
- G. The successful DB firm/team must be able to formally invoice City for services rendered, incorporating the SAP-generated Contract and purchase order numbers that shall be provided by City. City administers its design and construction management through an Internet-based management system. All vendors are required to comply with Specification 700 of the City of San Antonio Standard Construction Specifications.

- H. Conflicts of Interest. Respondent acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any Contract with City or any City agency such as City-owned utilities. An officer or employee has a “prohibited financial interest” in a Contract with City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the Contract or sale: the City officer or employee; his parent, child or spouse; a business entity in which he/she or his/her parent, child or spouse owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity; or a business entity in which any individual or entity above listed is a subcontractor on a City Contract, a partner or a parent or subsidiary business entity.
- I. Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of City, as defined in Section 2-42 of City’s Ethics Code. (Discretionary Contracts Disclosure – Attachment 4 in this RFQ).
- J. Independent Contractor. Respondent agrees and understands that, if selected, it and all persons designated by it to provide services in connection with a Contract, is/are and shall be deemed to be an independent Contractor(s), responsible for its/their respective acts or omissions, and that City shall in no way be responsible for Respondent’s actions, and that none of the parties hereto will have authority to bind the other(s) or to hold out to third parties, that it has such authority.
- K. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to Contract for the sale or purchase of property, goods or services with City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the seventh (7th) business day after the date the person: (1) begins Contract discussions or negotiations with City; or (2) submits to City an application, response to a request for proposals or bids, correspondence or another writing related to a potential agreement with City. The conflict of interest questionnaire form is available from the Texas Ethics Commission by accessing either of the following web addresses:

http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm
<http://www.ethics.state.tx.us/forms/CIQ.pdf>.

Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk, if mailing a completed conflict of interest questionnaire, mail to:

Office of the City Clerk
P.O. Box 839966
San Antonio, TX 78283-3966.

If delivering a completed conflict of interest questionnaire, deliver to:

Office of the City Clerk
City Hall, 2nd floor
100 Military Plaza
San Antonio, TX 78205.

Respondent should consult its own legal advisor with questions regarding the statute or form.

- L. All Submittals and/or any portions thereof become the property of City upon receipt and will not be returned. Any information deemed to be confidential by Respondent should be clearly noted on the page(s) where confidential information is contained. However, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Respondent may not be considered confidential under Texas law, or pursuant to a Court order.
- M. Any cost or expense incurred by the Respondent that is associated with the preparation of the Submittal, the Pre-Submission Conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.
- N. All provisions in Respondent's Submittal, including any estimated or projected costs, shall remain valid for one hundred twenty (120) days following the deadline date for submissions or, if a Proposal is accepted, throughout the entire term of the Contract
- O. Subsequent to the issuance of this solicitation, CIMS reserves the right to amend the solicitation, waive any requirement or irregularity, request modifications to Submittals, providing all teams are treated equally, and/or reject any and all Submittals for any reason. CIMS further reserves the right to award the Contract for this project as deemed in its best interest, and to request changes in the composition of any team.
- P. SOLICITATION PROCESS REVIEW: Any respondent desiring a review of the solicitation process must deliver a written request to the Director of CIMS within seven (7) calendar days from the date the notice of non-selection was sent. When the CIMS Director receives a timely written request, the CIMS Director, or designee, shall review the respondents concerns and the solicitation process for legitimacy and procedural correctness. After performing a full review, the CIMS Director will notify the respondent in writing of his/her determination.
- Q. INDIVIDUAL SUBMITTAL DEBRIEFINGS: In an effort to improve solicitation responses, CIMS is making available on its web site a "Solicitation Response Tip List" which includes the top common items that "make or break" submissions. Providing this information prior to the due date of the submittal provides respondents with an opportunity to develop a better response for each solicitation. As a result of this up-front effort, each respondent is entitled to one debriefing per calendar year after City Council has made an award if: (a) it is not the selected respondent and (b) it has not been debriefed in the previous 12-month period.. Once a firm has been debriefed, it will not be eligible for future debriefings within that calendar year. Any respondent meeting the above criteria, which desires an individual submittal debriefing, must deliver a written request to the CIMS Contract Services Division within seven (7) calendar days from the date the notice of non-selection was sent.