

CITY OF SAN ANTONIO

CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DEPARTMENT



REQUEST FOR QUALIFICATIONS:

**ON-CALL PROFESSIONAL ENVIRONMENTAL (NEPA)
CONSULTING SERVICES
CIMS033012DV**

Notice Regarding Prohibition on Campaign or Officeholder Contributions for Individuals and Entities Seeking High-Profile Contracts. Under Section 2-309 of the Municipal Campaign Finance Code, the following are prohibited from making a campaign or officeholder contribution to any member of City Council, candidate for City Council or political action committee who contributes to City Council elections, from the tenth (10th) business day after a contract solicitation has been released until thirty (30) calendar days after the contract has been awarded:

1. legal signatory of a high-profile contract;
2. any individual seeking a high-profile contract;
3. any owner or officer of an entity seeking a high-profile contract;
4. the spouse of any of these individuals;
5. any attorney, lobbyist or consultant retained to assist in seeking contract.

A high-profile contract cannot be awarded to an individual or entity if a prohibited contribution has been made by any of the above-listed individuals during the "blackout" period.

RFQ ISSUE DATE: MARCH 30, 2012

SUBMITTAL DEADLINE: APRIL 23, 2012 AT 10:00 A.M. LOCAL TIME

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REQUEST FOR QUALIFICATIONS

ON-CALL PROFESSIONAL ENVIRONMENTAL (NEPA) CONSULTING SERVICES

I. BACKGROUND

The CITY of San Antonio (hereinafter referred to as "CITY") is soliciting submittals from qualified firms (hereinafter referred to as "CONSULTANT") with an interest in contracting to provide environmental consulting services related primarily to the research and preparation of Categorical Exclusions (CE) and Environmental Assessment (EA) documents in accordance with National Environmental Policy Act (NEPA) and Federal Highway Administration (FHWA) requirements, and potentially other federal agencies. These documents will be prepared primarily for the City of San Antonio (CITY) in conjunction with Texas Department of Transportation (TxDOT) for various Metropolitan Planning Organization (MPO) transportation improvement projects, which are partially funded with federal funds. For non-federal funded projects, the City will use this contract on as-needed basis to conduct limited environmental assessments for natural resources, cultural resources and other resources for CITY funded capital improvement projects, parks projects, public works projects and other departmental projects. The CITY seeks qualifications from qualified firms interested in providing the services as described in this RFQ.

Selection of the CONSULTANT(s) and performance of the contract growing out of this RFQ shall be governed by requirements of the Texas Professional Services Procurement Act pertaining to engineering services.

One or more contracts may be awarded in response to this RFQ. The selected CONSULTANT(s) shall be retained in a standby mode. As projects are identified and funded, work to the selected CONSULTANT(s) shall be authorized. The contract term is anticipated to commence in June of 2012 and shall be for one (1) year term with three (3) optional (1) year extensions. The enabling Ordinance shall identify the total amount of money that may be expended under the contract(s) awarded in connection with this RFQ. The City does not guarantee that all sums authorized will be spent under the Standby Agreement(s) nor that any minimum amount of work will be authorized. Unless the specific project requirements are determined to preclude a specific consultant from consideration, the Department shall attempt to allocate the work evenly according to competency.

II. SCOPE OF WORK

The CITY performs an environmental constraint analysis for all capital improvement projects conducted by CIMS. CITY projects, such as Capital Improvement Projects (CIP), park improvement projects, and other City departmental projects, require compliance with several NEPA related environmental issues. NEPA related environmental issues or environmental constraint items evaluated as part of the environmental studies for City projects are listed below.

Additionally, as part of the CITY and TxDOT's NEPA process, the CITY is required to assess all environmental impacts related to the transportation improvement projects, determine potential environmental impacts, and obtain environmental clearances from FHWA prior to construction advertisement. The selected firm(s) will provide NEPA related services including, but not limited to, the following:

Prepare and complete environmental documents in accordance with TxDOT's current environmental requirements (new state environmental rules and current SOUs), FHWA requirements, or other federal agencies, such as HUD, USACOE, FEMA, etc.

Waters of the U.S.

- Compliance with United States Army Corp of Engineers Section 404 Permits and Clean Water Act
- Waters of the U. S., including wetlands delineations

- Permit Preparation
- Nationwide Permits
- Individual Permits
- Letters of Permission
- Mitigation Plans
- Wetland and stream mitigation design and monitoring
- Annual mitigation monitoring and reporting

Cultural Resources

- Compliance with the Texas Antiquities Code and Section 106 of the National Historic Preservation Act
- TARL Search/Background Reviews/Constraints Analysis
- Archeological Survey
- Limited Testing
- Testing to determine a site's potential to the NRHP or as SALs
- Shovel Testing
- Backhoe Trenching
- Geo-archeological Investigation
- Photo Documentation
- Native American Grave Protection and Repatriation Act Compliance
- Historical Standing Structure Surveys
- Cultural Resources Mitigation
- Archeological monitoring during construction, as required during construction
- Contexts Development
- Historical and Archival Backgrounds
- Artifact Curation
- Health and Safety Code Compliance as it pertains to cemeteries

Endangered Species

- Compliance with Endangered Species Act of 1973
- Endangered Species Habitat Evaluations
- Endangered Species Surveys
- Migratory Bird Treaty Act
- Karst Surveys
- Biota Surveys
- Section 10 Permitting
- USFWS Consultations

Socioeconomic

- Demographics
- Neighborhood Cohesion
- Economy
- Community Impacts
- Environmental Justice
- Right of Way Acquisition, Displacement, & Relocations

Public Involvement

- Public Hearing and Meeting Planning/Coordination
- Participation/Presentation at public meetings / public hearings
- Preparation of Letters/Mailings/Public Advertisements
- Preparation of Public Hearing and Meeting Reports
- Preparation of site figures/exhibits/power point presentations
- Provide a court reporter, as necessary

Noise/Air

- Noise Modeling using Traffic Noise Model 2.5 programs and field equipment or latest modeling software approved by TxDOT and FHWA
- Air modeling using Mobile 6 or latest modeling software approved by TxDOT and FHWA
- National Ambient Air Quality Standards
- Carbon Monoxide Traffic Air Quality Analysis
- Congestion Management Process / System Analysis
- TxDOT's Guidelines for Analysis and Abatement of Roadway Traffic Noise (2011)

Compliance with Section 401 Water Quality, Clean Water Act, and Edwards Aquifer Authority Regulations

- Permanent Best Management Plans
- Section 303(d)
- Stormwater
- Edward's Aquifer TCEQ Rules; Edwards Aquifer Authority Environmental Compliance Rules, if and when promulgated
- Floodplain
- Water Pollution Abatement Plans

Vegetation

- Species Identification
- Texas Parks Wildlife Department "Vegetation Types of Texas
- Impacts

Indirect and Cumulative Impacts

- Indirect Impacts
- Cumulative Impacts
- TxDOT's guidance on Preparing Indirect and Cumulative Impact Analyses

Section 4(f) Resources

- Compliance with 23CFR 774 & Section 4f of the 1996 U.S. Department of Transportation Act
- Section 4f Evaluations
- Preparation of Section 4f de minimis reports
- Preparation of Section 4f reports
- Preparation / Assistance of Memorandum of Agreements for Mitigation Efforts
- Preparation / Design of Mitigation Efforts
- Consultation with FHWA / TxDOT / THC

Hazardous Materials

- Environmental database searches in accordance with ASTM requirements

III. SCHEDULE OF EVENTS

The following tentative schedule has been prepared for this project.

| | |
|--|----------------|
| Pre-Submittal Conference | April 10, 2012 |
| Deadline for Submission of Written Questions | April 13, 2012 |
| Responses due | April 23, 2012 |
| Anticipated City Council Consideration | June 2012 |

Final approval of a selected firm(s) is subject to the action of the San Antonio City Council.

IV. PRE-SUBMITTAL CONFERENCE

A Pre-submittal Conference will be held on **Tuesday, April 10, 2012 at 10:00 a.m.** at the **Municipal Plaza Building, Plaza B Room, located at 114 W. Commerce, San Antonio, TX 78205.**

Respondents are encouraged to prepare and submit their questions in writing to the staff contact person listed in Article VII of the RFQ three (3) calendar days in advance of the Pre-Submittal Conference, in order to expedite the proceedings (such that staff may review the questions received and be able to respond verbally during the pre-submittal conference).

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

This meeting place is accessible to disabled persons. The Municipal Plaza Building is wheelchair accessible. The accessible entrance is located at 114 W. Commerce. Accessible parking spaces are located at City Hall, 100 Military Plaza. 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. All other forms of communication with any officer, employee or agent of the City shall not be binding on the City.

V. SUBMITTAL DOCUMENT REQUIREMENTS

Respondent's submittal shall include the following items in the following sequence:

- A. EXECUTIVE SUMMARY – Respondents shall include a one- to two-page Executive Summary for the SOQ. The summary shall include number of years in business, a statement of the work to be accomplished and how Respondent proposes to accomplish and perform each specific service.
- B. SUBMITTAL COVER / SIGNATURE PAGE (Form #1) – Respondent shall complete and sign this form, as found in RFQ Attachment 1. Respondent must include the completed Submittal Cover/Signature Sheet with submittal, indexed or labeled as Tab“1” of the submittal. The Submittal Cover/Signature Sheet must be signed by a person, or persons, authorized to bind the entity or entities submitting the response. Submittals signed by a person other than an officer of the company or partner of the firm must 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.
- C. SUBMITTAL CHECKLIST AND TABLE OF CONTENTS (Form #2) – Respondent shall complete this form, as found in RFQ Attachment 2, which is to be used as the Table of Contents for its submittal. The checklist shall be indexed or labeled as Tab “2” of the submittal.
- D. DISCRETIONARY CONTRACTS DISCLOSURE FORM (Form #3) – Respondents should complete the form online at: <http://www.sanantonio.gov/eforms/atty/DiscretionaryContractsDisclosure.pdf>, print a copy of the completed form and submit as Tab “3” in its ORIGINAL SUBMITTAL ONLY. If Respondent is proposing as a team or joint venture, then each party to that team or joint venture shall complete and submit a separate form with the submittal.
- E. LITIGATION DISCLOSURE FORM (Form #4) – Respondent shall complete the Litigation Disclosure form, as found in RFP Attachment 5, using additional pages for explanation, if necessary, with the form indexed or labeled as Tab “4” of submittal. If Respondent is proposing as a team or joint venture, then each party to that team or joint venture shall complete and submit a separate Litigation Disclosure form with the submittal.

- F. STATEMENT OF QUALIFICATIONS – Respondent shall complete a narrative document which will cover all items in Sections II & IX of this RFQ. Sufficient information regarding past projects and key personnels’ experience should be provided, to indicate that Respondent’s team has met or exceeded the minimum qualifications provided in Section II of this RFQ. This section is limited to thirteen (13) pages, not including forms and attachments, and shall be labeled or indexed as Tab “5” of submittal.
- G. TEAM ORGANIZATIONAL CHART - Indexed and labeled as Tab “6” of the submittal.
- H. RESUMES – Resumes for each key team member are to be submitted, shall be limited to a maximum length of one (1) page and should link back to projects included in the project sheets but also may offer information regarding additional previously completed projects not highlighted in the project sheets requested as part of the Qualification Statement. This section should be labeled or indexed as Tab “7” of the submittal.
- I. LETTERS OF REFERENCE – Respondent must provide a maximum of five (5) letters of reference. If included, this shall be indexed or labeled as Tab “8” of the submittal.
- J. PROOF OF INSURABILITY -- Respondent shall submit a copy of its current insurance certificate. This shall be indexed or labeled as Tab “9” of the submittal.

Respondent is expected to examine this RFQ carefully, understand the terms and conditions for providing the services listed herein and respond completely. FAILURE TO COMPLETE AND PROVIDE ANY OF THE ABOVE-REFERENCED REQUIRED DOCUMENTS SHALL RESULT IN THE RESPONDENT’S SUBMITTAL BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.

VI. AMENDMENTS TO RFQ

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

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

VII. SUBMISSION INSTRUCTIONS

When submitting a bid proposal 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. – 7 p.m. After the public proceeds through the metal detector, they will sign in and receive a visitor’s badge. For those that 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.

Respondent shall submit a total of **six (6)** Qualification Statements, which shall include one (1) original Qualification Statement, signed in ink, and five (5) printed copies of the submittal, as well as one (1) copy of the entire original submittal in an Adobe PDF format on a compact disk (CD) in a sealed package, clearly marked on the front of the package **“RFQ: ON-CALL PROFESSIONAL ENVIRONMENTAL (NEPA) CONSULTING SERVICES”**. All submittals must be received in the City Clerk’s Office at **NO LATER THAN 10:00 AM ON MONDAY, April 23, 2012** at the address indicated below. Any submittal received after this time shall not be considered.

Mailing Address:

City Clerk's Office, Attn: Capital Improvement Management Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address:

City Clerk's Office, Attn: Capital Improvement Management Services Department
100 Military Plaza
City Hall, 2nd Floor,
San Antonio, Texas 78205

Submittals sent by facsimile or email will not be accepted.

Responses to the solicitation should be complete and well organized. Adherence to the maximum page criterion is critical; each page side (maximum 8 1/2" x 11") containing criteria information will be counted. Any information provided beyond the thirteen (13) page maximum may be disregarded by the evaluation committee. 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. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials beyond which is sufficient to present a complete and effective submission are not required. Font size shall be not less than 10 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 proposal, other than the CD specified above. Each submittal must include the sections and attachments in the sequence listed in the RFQ Section V, 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 criteria may result in disqualification of the proposal.

Respondents which submit responses 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 nick-names, abbreviations (unless part of the legal title), shortened or short-hand 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, exactly shall match with Assumed Name filings. Corporate Respondents and limited liability company Respondents shall include the 11-digit Comptroller's Taxpayer Number on the signature page of the Proposal.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the signature page of its proposal, the Capital Improvements Management Services Director shall have the discretion, at any point in the contracting process, to suspend consideration of the proposal.

VIII. RESTRICTION ON COMMUNICATIONS

Once this RFQ has been released, Respondents are prohibited from communicating with City staff regarding the RFQ or Submittals, with the following exceptions:

- A. Respondents are prohibited from communicating with elected City officials and their staffs regarding the RFQ or submittal from the time the RFQ has been released until the contract is posted as a City Council agenda item. Respondents are prohibited from communicating with 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 which results in the direct or indirect discussion of the RFQ and/or submittal submitted by Respondents. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent's submittal from consideration. Exceptions to the restrictions on communication with City employees include:

1. Respondents may ask verbal questions concerning this RFQ at the Pre-Submittal Conference.

2. Respondents may submit written questions concerning this RFQ to the Staff Contact Person listed in the address below until **4:00 p.m. Local Time on April 13, 2012**. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by electronic mail or by fax to:

Diana Vasquez, Contract Officer, 207-5859 (via fax) or diana.vasquez@sanantonio.gov

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

Diana Vasquez, Contract Officer
City of San Antonio, Capital Improvements Management Services Department
Contract Services Division
114 W. Commerce Street, Room 900, San Antonio, TX 78205

3. Respondents and/or its agents are encouraged to contact the Disadvantage Business Enterprise (DBE) Program of the Capital Improvements Management Services Department for assistance or clarification with issues specifically related to the City's DBE Program, please contact Mr. Courtney McClure at 210.207-0027 or send an email to courtney.mcclure@sanantonio.gov. Contacts to the Disadvantage Business Enterprise (DBE) Program regarding this solicitation after the solicitation closing 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, if any, verbal questions and explanations will be permitted. If interviews are conducted, Respondents shall not bring lobbyists. The City reserves the right to exclude any persons from such selection committee meetings as it deems in its best interests.

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

IX. EVALUATION CRITERIA

The City will conduct a comprehensive, fair and impartial evaluation of all submittals received in response to this RFQ. The City may appoint a selection committee to perform the evaluation. Each submittal will be analyzed to determine overall responsiveness and qualifications under the RFQ. Criteria to be evaluated may include the items listed below. The selection committee may select all, some or none of the Respondents for interviews. If the City elects to conduct interviews, Respondents may be interviewed and re-scored based upon these same criteria, or other criteria to be determined by the selection committee. The City may also request additional information from Respondents at any time prior to final approval of a selected Respondent. The City reserves the right to select one, or more, or none of the Respondents to provide services. Final approval of a selected Respondent is subject to the action of the City of San Antonio City Council.

Criteria A: Evaluation of Background, Experience and Qualifications of Prime Firm (including Co-Respondent, Joint Venture Party or Partner and sub-consultants) as well as key personnel (45 pts)

In this criteria, the City will consider the relevance of past experience for all parties proposed as a part of the team. Respondents should carefully review the Background and Scope of Services included in this solicitation to best determine what projects should be highlighted and explained in order to obtain the most points for its response to this section.

Required Documents are project sheets and resumes:

5 Project Sheets

Include in respondent's submittal a minimum of five (5) project sheets, limited to one page each, which describe municipal projects deemed successful or similar projects the respondent has completed within the last five years. Each project sheet should include the following:

- 1) Project Name
- 2) Name of the project owner, and if applicable, the owner's representative with whom respondent had day-to-day contact. Provide contact information for each person in the following format:
 - a) Name of Contact Person: _____
 - b) Contact Person's Phone Number: _____
 - c) Contact Person's E-mail: _____
- 3) Photograph of the project or facility and other pertinent photos
- 4) Scope and magnitude of the project
- 5) Project Budget
- 6) Project dates (start/completion)
- 7) Description of services provided on the similar project and how that relates to the Scope of Services such as work for public entities. Provide project examples, both transportation and non-transportation projects, for elements but not limited to NEPA documentation (various categories); assessment, permitting and mitigation for Section 404 permits; cultural resources assessments for small / large scale projects; endangered species assessments in critical habitat area; water pollution abatement plans for transportation / public improvement projects; etc.
- 8) List the team members (Prime Firm, Co-Respondents, Joint Venture Parties or Partners and major sub-consultants) along with key personnel that were assigned to, or that were under contract for each previously completed project and provide details regarding their respective roles, and note if they are proposed to be assigned to this project, what role they will play, and where they will be located.

Resumes of key personnel should be included as Tab 7 to Respondent's Submittal (Resumes do not count as a part of the page limit)

Resumes should be no more than one page in length and include:

- License type (if applicable) and number of years licensed
- Number of years employed with the Firm
- Number of years of experience in proposed role

Criteria B: Project Approach/Management Plan (35 pts)

In a narrative format, included as a part of Tab 5, provide a narrative description as well as specific examples of how these techniques or procedures were used in previous projects, including public entities, especially large municipalities. Response to this section is limited to a maximum of five (5) pages, not including organizational chart.

- 1) Describe respondent's approach to overall team formation, coordination of team members and provide an organization chart (included as Tab 6 in the submittal);
- 2) Detail the current capacity of key team individuals, the percent of time to be spent on this project and the respondent's capabilities to complete the services outlined herein and include any concurrent or near future commitment that would impede the firm's ability to perform this contract.;
- 3) Briefly describe your Firm's understanding of these services, including all of the requirements to successfully complete the service in this RFQ. Provide the approach of your firm and/or team partner(s) in meeting those requirements, and comprehensively address all the issues, standards and requirements needed to produce a finished product or service. Include the following
 - a. Describe respondent's approach to developing the tasks and deliverables for the required services.
 - b. Describe respondent's project management approach.
 - c. Describe estimated timeframe for completion of the required tasks.
- 4) Describe the respondent's approach to stakeholder involvement and to providing seamless, successful delivery of the services outlined in this RFQ.
- 5) Describe your Firm's policies, procedures and plans to ensure quality services (continuing education, on-going training, internal quality practices, etc.)

Criteria C: Team's Experience with San Antonio Region Issues and past experience with City of San Antonio contracts (20 pts)

A portion of the scoring for this criteria will be based on the City's Consultants' Scorecard, other

documentation or experience with City projects. The City will consider the history of the firm in complying with project programs, schedules, and budgets on previous **City of San Antonio** projects. No information will need to be submitted in response to this portion of the criteria. Specific items for consideration may include:

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

The following section is limited to three (3) pages in Tab 5:

The City is interested in evaluating the firms experience with San Antonio issues, as may be evidenced by work in the San Antonio and surrounding area during the past five (5) years. In narrative form, briefly describe experience in the following areas and reference projects relating to that experience:

1. Coordination and assistance with applicable assessment, permitting and regulatory requirements as required;
2. Environmental community, conditions and constraints related to a specific federally funded project;
3. Public awareness and involvement in project development in the local area;
4. Experience with projects of local historical significance and coordination with relevant agencies; and
5. NEPA services performed in the San Antonio Region in accordance with TxDOT, FHWA, or other federal agency requirements.

X. Disadvantage Business Enterprise (DBE) Program

The City of San Antonio Capital Improvements Management Services Department (CIMS) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with the Texas Department of Transportation (DOT). The objective of the DBE program is to ensure that the CIMS Department complies with 49 CFR Part 26, and to remedy past and current discrimination against disadvantaged businesses. The program ensures a "level playing field" and fosters equal opportunity in all Texas Department of Transportation and Federal Highway Association assisted contracts that include highway and street construction.

The policy of the CIMS Disadvantaged Business Enterprise program is:

To ensure non-discrimination in the award and administration of DOT assisted and locally funded contracts

To create a level playing field on which DBEs can compete fairly for DOT assisted and locally funded contracts

To ensure that the DBE program is narrowly tailored in accordance with the applicable law

To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs

To help remove barriers to the participation of DBEs in DOT assisted and locally funded contracts

To assist the development of firms that can compete successfully in the marketplace outside the DBE program

DBE OBLIGATION

The CIMS Department and/or its contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have an equal opportunity to participate in the performance of contracts financed in whole or in part with federal funds provided under this agreement. In this regard the CIMS Department and its contractors shall not discriminate on the basis of race, color, national origin, gender, or disability in the award and performance of TXDOT-assisted contracts.

THE DBE GOAL FOR THIS PROJECT IS 4%

DEFINITIONS

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

- (1) *Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:
 - (i) One concern controls or has the power to control the other; or
 - (ii) A third party or parties controls or has the power to control both; or
 - (iii) An identity of interest between or among parties exists such that affiliation may be found.*
- (2) *In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE Program.*

Commercially Useful Function—a DBE is considered to perform a commercially useful function when it:

- (1) *Engages in meaningful work that provides for a performance of a distinct element of the contract where that distinct element of work is worthy of the dollar amount to be awarded to the DBE; or,*
- (2) *Carries out its responsibilities by actually performing, managing, and/or supervising the work involved.*

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

Contractor means one who participates, through a contract or subcontract (at any tier) in a DOT assisted highway, transit, or airport program.

Department or DOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantage business enterprise or DBE means a for-profit small business concern—

- (1) *That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and*
- (2) *Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.*
- (3)

Good faith efforts mean efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Joint Venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Personal Net Worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

CERTIFICATION

1. A contractor/bidder/proposer shall submit to the City a copy of the DBE Certification Affidavit, for all DBE firms utilized or proposed to be utilized as subcontractors or suppliers in the performance of work.
2. The Certification Affidavit must be from a firm that has been certified by one of the five (5) certifying agencies of the Texas Unified Certification Program (TUCP). The five agencies are: Texas Department of Transportation (TxDot), North Central Texas Regional Certification Agency (NCTRCA), South Central Texas Regional Certification Agency (SCTRCA), City of Houston, and Corpus Christi Regional Transportation Authority. Each certifying entity will maintain and process all DBE applications in their designated area throughout the state.
3. A firm must be certified on or before the bid/proposal due date in order for the firm's proposed work on the particular contract to be credited toward the DBE goal. It is not enough for a certification application to have been submitted by the deadline.

COUNTING JOINT VENTURES

Joint Ventures do not have to be fifty-one percent (51%) DBE owned in order to be counted toward the participation goal. *Joint ventures that do not include any DBE firms will not count toward the goal.* A joint venture with ownership of DBE partners in any percentage will be counted for that percentage equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces, (provided the DBE ownership is real and substantial and the DBEs are performing a commercially useful function).

The required documentation to be submitted to the City, along with the proposal, for Joint Ventures with DBE partners shall include:

- a. The Joint Venture Agreement for the specific contract including a detailed statement of ownership.
- b. Corporate resolutions or other documents authorizing the firms to enter into the Joint Venture.
- c. A description of the work to be performed by all the Joint Venture Partners.
- d. Proof of current certification status of the individual DBE venture partners.

GOOD FAITH EFFORTS

The bidder/proposer shall demonstrate, to the satisfaction of the DBE Liaison that genuine efforts have been made to achieve the DBE goal. The requirements for demonstrating "good faith efforts" are set forth as follows:

1. Written notices to DBEs contacted by the bidder/proposer for specific scopes of work identified by the bidder/proposer for subcontracting opportunities not less than five (5) business days prior to bid due date. Such notices shall include information on the plans, specifications and scope of work, including the deadline for submission of interest in teaming;
2. Attendance at a pre-bid conference, if any, scheduled by the City to inform DBEs of subcontracting opportunities under a given solicitation.

3. Efforts made to define additional elements of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the goals.
4. For those DBES responding affirmatively in writing to the notice required by Item 1 above,
 - (a) reasons why agreements were not reached, including written explanation for rejection of bids;
 - (b) if additional elements of work have been identified by the bidder/proposer as available for subcontracting, the bidder/proposer shall contact the CIMS Department DBE Liaison to ascertain the availability of DBE firms in those areas.
5. Efforts to assist DBE contractors with bonding, insurance, and financing, where appropriate.
6. Seeking the assistance of the CIMS DBE Liaison in contacting DBEs.
7. A bidder/proposer shall commit to the minimum percentage of DBE utilization as submitted with its bid/proposal on this contract. During the term of this contract, any unjustified failure to comply with the level of DBE participation identified in the bid/proposal shall be considered a material breach of contract.
8. If the bidder/proposer is a certified DBE and the DBE bidder/proposer intends to perform a portion of the work with its own work force, the DBE bidder/proposer must identify the work specifically by type and dollar value and must perform the work indicated with its own work forces in order to have that work counted toward the goal. (Even though the bidder/proposer is a certified DBE does not relieve the DBE bidder/proposer of the responsibility to make good faith efforts.)
9. In addition, all bidders/proposers will be required to submit the following information with the bid:
 - (a) The names and addresses of DBE firms that will participate in the contract;
 - (b) A description of the work that each DBE will perform
 - (c) The dollar amount of the participation of each DBE firm participating
 - (d) Written documentation of the bidder's/proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
 - (e) Written confirmation from the DBE that it is participating in the contract as provided in the bidder's/proposer's commitment.

EVALUATION OF GOOD FAITH EFFORTS

The good faith effort of a bidder/proposer will be evaluated by the DBE Liaison to determine whether the efforts to obtain DBE participation were those that a firm seeking subcontractors would take in the normal course of doing business; whether the steps taken had a reasonable prospect of success; and whether based upon the size, scope and complexity of the subcontract, there were qualified DBE firms available and willing to accept the contract at a competitive price.

The following is a list of types of actions, which the DBE Liaison may consider as part of the bidder's/proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

Criteria used to evaluate "Good Faith Efforts" are as follows:

1. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal conferences, advertising and/or written notices) the interest of certified DBEs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder/proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
3. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

4. (a) Negotiating in good faith with interested DBEs. It is the bidder's/proposer's responsibility to make a portion of the work available to DBE subcontractors and/or suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and/or suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
 - (b) A bidder/proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a prime contractor failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the prime contractor of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
5. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
6. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance.
7. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
8. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
9. In determining whether a bidder/proposer has made good faith efforts, the DBE Liaison may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, the DBE Liaison may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, the DBE Liaison may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

RECONSIDERATION MECHANISM

The CIMS Department DBE Liaison will evaluate the "good faith efforts" of a firm. If after reviewing the good faith efforts submitted by Bidder/Proposer, the DBE Liaison determines that the Bidder/Proposer has failed to adequately document its good faith efforts, then the Bidder/Proposer shall have the opportunity to provide written documentation or argument, to the CIMS Director, concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Proposer will have the opportunity to meet in person with the CIMS Director to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The CIMS Director will provide a written decision on reconsideration explaining the basis of his decision. In cases of dispute, the final decision in determining whether Good Faith Efforts have been made rests with the CIMS Director.

The CIMS Director may determine that the efforts of the Bidder/Proposer substantially comply with the purpose of this program and such determination is in the best interest of the DBE Program and the City.

However, if the CIMS Director determines that the Bidder/Proposer did not make good faith efforts to meet the goal, the decision is not administratively appealable to the Texas Department of Transportation

COMPLIANCE

If a bidder/proposer is awarded a contract:

1. The bidder/proposer must not terminate for convenience a DBE subcontractor (or an approved substitute DBE firm) and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the City's prior written consent. When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the bidder/proposer must notify the City immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.
2. The Bidder/Proposer will be required to make good faith efforts to find another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal the City has established for this contract. The Bidder/Proposer will be required to obtain the DBE Liaison's prior approval of the substitute DBE, through the submittal of Change of Subcontractors/Suppliers and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the Bidder/Proposer fails or refuses to comply in the time specified, our office may issue a termination for default.

PROMPT PAYMENT

The Prime Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its subcontract **no later than 10 days** from the date that the prime contractor has been paid by the City for invoices submitted for performance of subcontractor's work. A delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of San Antonio. This clause applies to both DBE and non-DBE subcontractors.

To Apply for DBE Certification, please contact the South Central Texas Regional Certification Agency (SCTRCA) at (210) 227-4722 or www.sctrca.org

For additional information contact Courtney McClure, DBE Coordinator, (210) 207-0027

XI. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

City reserves the right to award one, more than one, or no contract(s) in response to this RFQ.

- A. The Contract(s), if awarded, will be awarded to the Respondent(s) whose submittal(s) is/are deemed most advantageous to City, as determined by the selection committee, upon approval of the City Council.
- B. City may accept any submittal in whole or in part. If subsequent negotiations are conducted, said negotiations shall not constitute a rejection or alternate RFQ on the part of City. However, final selection of a Respondent 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 to waive informalities and irregularities in the proposals received. City also reserves the right to terminate this RFQ, reissue a subsequent solicitation and/or remedy technical errors in the RFQ process.
- D. City will require the selected Respondent(s) to execute a contract, in substantially the form as attached with this RFQ, as Attachment 6, with City, 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 this RFP and the contract. Contract documents are not binding until approved by the City Attorney. 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.

- E. This RFQ does not commit City to enter into a Contract, award any services related to this RFQ, nor does it obligate City to pay any costs incurred in preparation or submission of a response or in anticipation of a contract.
- F. The successful Respondent must be able to formally invoice the 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, referred to as the "Portal". All vendors will be required to use the City's portal system and submit schedules using Primavera Project Manager 5.X or Primavera Contractor 4.1 or above.
- G. 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: City officer or employee; his parent, child or spouse; a business entity in which he or his parent, child or spouse owns ten percent or more of the voting stock or shares of the business entity, or ten percent 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.
- H. Respondent is required to warrant and certify that it, its officers, employees and agents neither are officials nor employees of City, as defined in Section 2-42 of City's Ethics Code. (Discretionary Contracts Disclosure – Instructions and web-link to electronic form are included in Attachment 4 of RFQ.
- I. Independent Contractor. Respondent agrees and understands that, if selected, it and all persons designated by it to provide services in connection with a contract: (1) is/are and shall be deemed to be an independent contractor(s) responsible for its/their respective acts or omissions; (2) that City shall in no way be responsible for Respondent's actions; and (3) that none of the parties hereto will have authority to bind the others, or to hold out to third parties that it has such authority.
- J. 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 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.

- K. All submittals 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.

- L. Any cost or expense incurred by the Respondent that is associated with the preparation of the submittal, the Pre-Submittal Conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.
- M. 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 determination.
- N. 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 a 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.