



**STATE OF TENNESSEE
Tennessee Board of Regents**

**REQUEST FOR PROPOSALS
FOR
Best Value Procurement Option One
for the
HVAC Repair and Replacement Phase I
East Tennessee State University
SBC Project No. 166/005-06-2009**

Release Date: February 18, 2010

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1 INTRODUCTION

1.1 Statement of Purpose

The Tennessee Board of Regents, an agency of the State of Tennessee, hereinafter referred to as the Owner, has issued this Request for Proposals (RFP) to define the Owner's minimum service requirements; solicit proposals; detail proposal requirements; and outline the Owner's process for evaluating proposals to select a contractor using the Best Value Procurement Option One.

Tennessee statutes (T.C.A. 4-15-101, et. seq.) empower the State Building Commission to award, subject to the approval of the State Building Commission, construction contracts for the improvement to real property for State of Tennessee projects. The Commission shall follow the "competitive sealed Cost Proposal best value procedure" as herein described, in order to achieve maximum competition among qualified Proposers and to obtain the highest level of quality at the best price for State projects "utilizing procedures that promote competition to the greatest extent possible".

This contract shall be awarded under a Best Value Procurement Option One selection method. Under this method the contract will be awarded to the lowest cost Proposer, after pre-qualifying up to three Proposers to participate in Cost Proposal – Part 2. Award will be subject to the approval of the State Building Commission.

The Owner intends to execute a contract between the Owner and the successful Proposer to perform the work as identified in paragraph 1.2 Scope of Services below.

1.2 Scope of Service

The scope of services for this RFP along with other pertinent specific information concerning Project Name, number, and description is included in RFP Attachment 6.7 Project Narrative and Documentation.

1.3 Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the State's contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the Owner or in the employment practices of the State of Tennessee's contractors. Accordingly, all vendors entering into contracts with the Owner shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

The Owner has designated the following to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and applicable federal regulations.

Office of the Human Resources
Tennessee Board of Regents
1415 Murfreesboro Road, Suite 350
Nashville, TN 37217
615/366-4417

1.4 Assistance to Proposers with a Disability

A Proposer with a disability may receive accommodation regarding the means of communicating this RFP and participating in this RFP process. A Proposer with a disability should contact the RFP Coordinator to request reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.5 RFP Communications

- 1.5.1 Unauthorized contact regarding this RFP with employees or officials of the State of Tennessee other than the RFP Coordinator detailed below may result in disqualification from this procurement process.

- 1.5.1.1 Interested Parties must direct all communications regarding this RFP to the following RFP Coordinator, who is the State of Tennessee's only official point of contact for this RFP.

Trish Whitlock
Tennessee Board of Regents
1415 Murfreesboro Road, Suite 664
Nashville, TN 37217
Telephone # 615/366-4476
Fax # 615/366-2196
E-mail rfpcoordinator@tbr.edu

- 1.5.1.2 Notwithstanding the foregoing, Interested Parties may contact the staff of the Governor's Office of Diversity Business Enterprise for general, public information regarding this RFP, assistance available from the Governor's Office of Diversity Business Enterprise, or potential future Owner procurements.
- 1.5.2 The Owner has assigned the following RFP identification number that must be referenced in all communications regarding the RFP as shown on the cover page.
- 1.5.3 Any oral communications shall be considered unofficial and non-binding with regard to this RFP.
- 1.5.4 Each Proposer shall assume the risk of the method of dispatching any communication or proposal to the Owner. The Owner assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or electronic "postmarking" of a communication or proposal to the Owner by a deadline date shall not substitute for actual receipt of a communication or proposal by the Owner.
- 1.5.5 The RFP Coordinator must receive all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.5.6 The Owner reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests for clarification. The Owner's official responses and other official communications pursuant to this RFP shall constitute an addendum of this RFP.
- 1.5.7 The Owner will convey all official responses and communications pursuant to this RFP to the potential proposers from whom the Owner has received a Notice of Intent to Propose.
- 1.5.8 Only the Owner's official, written responses and communications shall be considered binding with regard to this RFP.
- 1.5.9 The Owner reserves the right to determine, at its sole discretion, the method of conveying official responses and communications pursuant to this RFP (e.g., written, facsimile, electronic mail, or Internet posting).
- 1.5.10 Any data or factual information provided by the Owner, in this RFP or an official response or communication, shall be deemed for informational purposes only, and if a Proposer relies on such data or factual information, the Proposer should either: (1) independently verify the information; or, (2) obtain the Owner's written consent to rely thereon.

1.6 Notice of Intent to Propose

Each potential proposer should submit a Notice of Intent to Propose (e.g. written, facsimile, or electronic mail) to the RFP Coordinator by the deadline detailed in the RFP Section 2, Schedule of Events. The notice should include:

- Proposer's name
- name and title of a contact person
- address, telephone number, e-mail address, and facsimile number of the contact person
- contractor license number, classification, expiration date, and license limit

A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a proposal, however, it is necessary to ensure receipt of RFP amendments and other communications regarding the RFP (refer to RFP Sections 1.5, et seq., above).

1.7 Proposal Deadline

Proposals must be submitted no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. A proposal must respond to the written RFP and any RFP exhibits, attachments, or addenda. A late proposal shall not be accepted, and a Proposer's failure to submit a proposal before the deadline shall cause the proposal to be disqualified.

1.8 Pre-Proposal Conferences

Pre-Proposal Conferences will be held at the time and date detailed in the RFP Section 2, Schedule of Events. The purpose of the conferences is to discuss the RFP scope of services. While questions will be entertained, the response to any question at the Pre-Proposal Conferences shall be considered tentative and non-binding with regard to this RFP. Questions concerning the RFP shall be submitted in writing prior to the Written Comments Deadline dates detailed in the RFP Section 2, Schedule of Events. To ensure accurate, consistent responses to all known potential Proposers, the official response to questions will be issued by the Owner as described in RFP Sections 1.5, et seq., above and on the date detailed in the RFP Section 2, Schedule of Events.

Attendance at Pre-Proposal Conferences is not mandatory. The conferences will be held at the location identified in RFP Attachment 6.7.

1.9 Bonding

The Owner shall require bonding in accordance with the Owner's Designers' Manual and the General Conditions of the Contract. A 5% bid bond must be included in the sealed envelope with the Cost Proposal

2 RFP SCHEDULE OF EVENTS

The following Schedule of Events represents the Owner's best estimate of the schedule that will be followed. Unless otherwise specified, the time of day for the following events will be between 8:00 a.m. and 4:30 p.m., Central Time.

RFP SCHEDULE OF EVENTS		
The Owner reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. The Owner will communicate any adjustment to the Schedule of Events to the potential proposers from whom the Owner has received a Notice of Intent to Propose		
Technical Proposal – Part 1 EVENT	TIME	DATE (all dates are Owner business days)
1. Owner Issues RFP		February 18, 2010
2. Disability Accommodation Request Deadline		February 22, 2010
3. Pre-Technical Proposal Conference	10:00 am EST	February 23, 2010
4. Notice of Intent to Propose Deadline		February 25, 2010
5. Written Comments Deadline		March 1, 2010
6. Owner Responds to Written Comments		March 3, 2010
7. Proposal Deadline	11:00 am	March 9, 2010
8. Owner Opens Technical Proposals and Checks Mandatory Items		March 9, 2010
9. Owner Completes and Scores Technical Proposal Evaluations		March 18, 2010
10. Owner Notifies all Proposers of Top Tier Proposers from Part 1		March 19, 2010
11. Proposers Notice of Intent to Participate in the Cost Proposal - Part 2	11:00 am	March 22, 2010
Cost Proposal – Part 2 EVENT	TIME	DATE (All dates are Owner business days)
1. Owner Releases Construction Documents for Cost Proposal		March 19, 2010
2. Pre-Cost Proposal Conference	9:00 am	March 26, 2010
3. Written Comments Deadline		March 29, 2010
4. Owner Responds to Written Comments		March 31, 2010
5. Owner Receives Cost Proposal for Construction	2:00 pm	April 7, 2010
6. Owner Completes Evaluation and Develops Recommendation		April 7, 2010
7. State Building Commission Approval	11:00 am	April 8, 2010
8. Owner Issues Intent to Award Notice Opens RFP Files for Public Inspection	1:00 pm	April 12, 2010
9. Begin Contract Signing		April 12, 2010
10. Contract Signature Deadline		April 19, 2010
11. Contract Start Date		April 20, 2010

3 PROPOSAL REQUIREMENTS

Each Proposer must submit a proposal in response to this RFP with the most favorable terms that the Proposer can offer. There will be no best and final offer procedure. The Proposal shall be brief and to the point in a direct response to the information requested for each item.

3.1 Proposal Form and Delivery

3.1.1 Each response to this RFP must consist of a Technical Proposal (Part 1) and a Cost Proposal (Part 2) as described in Paragraphs 3.2 and 3.3 respectively.

3.1.2 Part 1 - Each Proposer must submit one (1) original and nine (9) copies of the Technical Proposal to the Owner in a sealed package in accordance with RFP Section 2, Schedule of Events. For convenience, a submittal guide is provided below in paragraph 3.1.5. The technical proposal must be clearly marked:

"Technical Proposal in Response to RFP- SBC Project No. 166/005-06-2009

3.1.3 Part 2 - Each Proposer must submit one (1) Cost Proposal to the Owner in a separate, sealed envelope that will be provided with the construction documents to the proposers that participate in the Cost Proposal – Part 2. Response shall be in accordance with RFP Section 2, Schedule of Events.

3.1.4 The proposer must submit one (1) original and nine (9) copies of Attachment 6.6, Subcontractor Qualifications Statement, for all proposed subcontractors listed in RFP Attachment 6.3 Paragraph C.2 as a part of the Technical Proposal as shown in the Submittal Guide in paragraph 3.1.5 below.

3.1.5 Proposal documents must be submitted as follows:

SUBMITTAL GUIDE (Responses shall be submitted in accordance with RFP Section 2, Schedule of Events)			
Document	No. of Copies	Package Marking	RFP Reference
<u>Technical Proposal – Part 1</u> Pass/Fail Mandatory Requirement Items Mandatory Information Items Qualifications and Experience Technical Approach	Original and 9 copies	Technical Proposal in Response to RFP SBC No. 166/005-06- 2009	Attachments 6.2, 6.3 & 6.6
<u>Cost Proposal – Part 2</u>	Original only	Cost proposal in response to RFP SBC No. 166/005-06-2009 Envelope provided by Owner	Attachment 6.4

- 3.1.6 The Owner must receive all proposals in response to this RFP, at the following address, no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events:

Trish Whitlock
Tennessee Board of Regents
1415 Murfreesboro Road, Suite 664
Nashville, TN 37217
Telephone # 615/366-4476
Fax # 615/366-2196
E-mail rfpcoordinator@tbr.edu

- 3.1.7 A Proposer may not deliver a proposal orally or by any means of electronic transmission.

3.2 Technical Proposal – Part 1

- 3.2.1 The RFP Attachment 6.3, Technical Proposal and Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. This guide includes the following:

- a. Pass/Fail Mandatory Requirement Items
- b. Mandatory Information Items
- c. Qualifications and Experience
- d. Technical Approach
- e. Subcontractor Qualifications

No pricing information (except for what is specifically requested) shall be included in the Technical Proposal. Inclusion of Cost Proposal amounts (RFP Attachment 6.4) in the Technical Proposal shall make the proposal non-responsive and the Owner shall reject it.

- 3.2.2 Each Proposer must use the Technical Proposal and Evaluation Guide to organize, reference, and draft the Technical Proposal. Each Proposer should duplicate the Technical Proposal and Evaluation Guide and use it as a table of contents covering the Technical Proposal (adding proposal page numbers as appropriate).
- 3.2.3 Each proposal should be economically prepared, with emphasis on completeness and clarity of content. A proposal must be written on standard 8 1/2" x 11" paper (although foldouts containing charts, spreadsheets, and oversize exhibits are permissible). All proposal pages must be numbered.
- 3.2.4 All information included in a Technical Proposal should be relevant to a specific requirement detailed in the Technical Proposal and Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will in no way contribute to the evaluation process.
- 3.2.5 The Owner may determine a proposal to be non-responsive and reject it if the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the Technical Proposal and Evaluation Guide.
- 3.2.6 The Owner may determine a proposal to be non-responsive and reject it if the Technical Proposal document fails to appropriately address/meet all of the requirements detailed in the Technical Proposal and Evaluation Guide.

3.3 Cost Proposal – Part 2

- 3.3.1 The Cost Proposal must be submitted to the Owner in a sealed envelope provided with the construction documents in accordance with RFP Section 2, Schedule of Events, and paragraph 3.1.3 and paragraph 3.1.5.
- 3.3.2 Each Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.4, Cost Proposal.
- 3.3.3 Each Proposer shall only record the proposed cost exactly as required by the Cost Proposal and shall not record any other rates, amounts, or information. It shall not record any text that could be construed as a qualification of the cost proposal.
- 3.3.4 The Proposer must sign and date the Cost Proposal.

- 3.3.5 If a Proposer fails to submit a Cost Proposal as required, the Owner shall determine the proposal to be non-responsive and reject it.

3.4 Subcontracting

- 3.4.1 Notwithstanding the use of subcontractors, the Successful Proposer awarded a Contract under this RFP, shall be the prime contractor and shall be responsible for all work performed.
- 3.4.2 The Proposer is required to review the background, qualifications and performance capabilities of its prelisted subcontractors to ensure that they meet the responsibility standards of this RFP and have sufficient qualifications, resources and capacity to perform the Contract Work.
- 3.4.3 RFP Attachment 6.6, Subcontractor Qualifications Statement, must be provided for all proposed subcontractors as listed in RFP Attachment 6.3 Paragraph C.2.

4 GENERAL REQUIREMENTS AND CONTRACTING INFORMATION

4.1 Proposer Required Review and Waiver of Objections

Each Proposer must carefully review this RFP and all attachments, including but not limited to the pro forma contract, for comments, questions, defects, objections, or any other matter requiring clarification or correction (collectively called "comments"). Comments concerning RFP objections must be made in writing and received by the Owner no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events. This will allow issuance of any necessary addenda and help prevent the opening of defective proposals upon which contract award could not be made.

Protests based on any objection shall be considered waived and invalid if these comments/objections have not been brought to the attention of the Owner, in writing, by the Written Comments Deadline.

4.2 RFP Addenda and Cancellation

The Owner reserves the unilateral right to issue addenda to this RFP in writing at any time. If an RFP Addenda is issued, the Owner will convey such addenda to the potential proposers who submitted a Notice of Intent to Propose. Each proposal must respond to the final written RFP and any exhibits, attachments, and addenda.

The Owner reserves the right, at its sole discretion, to cancel and reissue this RFP or to cancel this RFP in its entirety in accordance with applicable laws and regulations.

4.3 Proposal Prohibitions and Right of Rejection

- 4.3.1 The Owner reserves the right, at its sole discretion, to reject any and all proposals in accordance with applicable laws and regulations.
- 4.3.2 Each proposal must comply with all of the terms of this RFP and all applicable State laws and regulations. The Owner may reject any proposal that does not comply with all of the terms, conditions, and performance requirements of this RFP. The Owner may consider any proposal that does not meet the requirements of this RFP to be non-responsive, and the Owner may reject such a proposal.
- 4.3.3 A proposal of alternate services (i.e., a proposal that offers services different from those requested by this RFP) shall be considered non-responsive and rejected.
- 4.3.4 A Proposer may not restrict the rights of the Owner or otherwise qualify a proposal. The Owner may determine such a proposal to be a non-responsive counteroffer, and the proposal may be rejected.
- 4.3.5 A Proposer may not submit the Proposer's own contract terms and conditions in a response to this RFP. If a proposal contains such terms and conditions, the Owner may determine, at its sole discretion, the proposal to be a non-responsive counteroffer, and the proposal may be rejected.
- 4.3.6 A Proposer shall not submit more than one proposal. Submitting more than one proposal shall result in the disqualification of the Proposer.
- 4.3.7 A Proposer shall not submit multiple proposals in different forms. This prohibited action shall be defined as a Proposer submitting one proposal as a general contractor and permitting a second Proposer to submit another proposal with the first Proposer offered as a subcontractor. This restriction does not prohibit different Proposers from offering the same subcontractor as a part of their proposals, provided that the subcontractor does not also submit a proposal as general contractor. Submitting multiple proposals in different forms may result in the disqualification of all Proposers knowingly involved.
- 4.3.8 The Owner shall reject a proposal if the Cost Proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Proposer. Regardless of the time of detection, the Owner shall consider any of the foregoing prohibited actions to be grounds for proposal rejection or contract termination.
- 4.3.9 The Owner shall not contract with or consider a proposal from:
 - 4.3.9.1 an individual who is, or within the past six months has been, an employee or official of the State of Tennessee;

- 4.3.9.2 a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee or official of the State of Tennessee (this shall not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);
- 4.3.9.3 a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee or official of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
- 4.3.9.4 any individual, company, or other entity involved in assisting the Owner in the development, formulation, or drafting of this RFP or its scope of services shall be considered to have been given information that would afford an unfair advantage over other Proposers, and such individual, company, or other entity may not submit a proposal in response to this RFP.
- 4.3.9.5 For the purposes of applying the requirements of RFP subsection 4.3.9, et. seq., an individual shall be deemed an employee or official of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid.
- 4.3.10 The Owner reserves the right, at its sole discretion, to waive a proposal's variances from full compliance with this RFP. If the Owner waives minor variances in a proposal, such waiver shall not modify the RFP requirements or excuse the Proposer from full compliance with such. Notwithstanding any minor variance, the Owner may hold any Proposer to strict compliance with this RFP.

4.4 Incorrect Proposal Information

If the Owner determines that a Proposer has provided, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect, that proposal shall be determined non-responsive and shall be rejected.

4.5 Proposal of Additional Services

- 4.5.1 If a proposal offers services in addition to those required by and described in this RFP, the additional services may be added to the contract before contract signing at the sole discretion of the Owner. Notwithstanding the foregoing, a Proposer shall not propose any additional cost amount(s) or rate(s) for additional services.

4.6 Assignment and Subcontracting

- 4.6.1 The Proposer awarded a contract pursuant to this RFP may not transfer, or assign any portion of the contract without the Owner's prior, written approval.
- 4.6.2 A subcontractor may only be substituted for a proposed subcontractor at the discretion of the Owner and with the Owner's prior, written approval.
- 4.6.3 At its sole discretion, the Owner reserves the right to refuse approval of any subcontract, transfer, or assignment.

4.7 Right to Refuse Personnel

At its sole discretion, the Owner reserves the right to refuse any personnel, of the general contractor or a subcontractor, for use in the performance of a contract pursuant to this RFP.

4.8 Insurance

The Owner will require the apparent successful Proposer to provide proof of insurance coverage as required by the Owner's Designers' Manual (General Conditions of the Contract) before entering into a contract. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by the Owner shall be in form and substance acceptable to the Owner.

4.9 Licensure

4.9.1 A Proposer must be a licensed General Contractor in the State of Tennessee. Before a Contract pursuant to this RFP is signed, the Proposer and its personnel, if applicable, must hold all necessary, applicable business and professional licenses as may be required for specific services. The Owner may require any or all Proposers to submit evidence of proper licensure.

4.9.2 Proposers shall be familiar with the Contractors Licensing Act of 1994, as currently amended (codified in Tennessee Code Annotated Sections 62-6-101, et seq.). A contract will not be awarded to a Proposer whose Cost Proposal is in conflict with state licensing law.

4.10 Service Location and Work Space

The service pursuant to this RFP is to be performed, completed, managed, and delivered as detailed in the RFP Attachment 6.1, Agreement Between Owner and Contractor. Work space on the Owner's premises will not be available for contractor use.

4.11 Proposal Withdrawal

A Proposer may withdraw a submitted proposal at any time up to the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. To do so, a proposer must submit a written request, signed by a Proposer's authorized representative to withdraw a proposal. After withdrawing a previously submitted proposal, a Proposer may submit another proposal at any time up to the Proposal Deadline.

4.12 Proposal Errors and Amendments

Each Proposer is liable for all proposal errors or omissions. A Proposer will not be allowed to alter or amend proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the Owner.

4.13 Proposal Preparation Costs

The Owner will not pay any costs associated with the preparation, submittal, presentation, or contracting of any proposal.

4.14 Disclosure of Proposal Contents

Each proposal and all materials submitted to the Owner in response to this RFP shall become the property of the Owner. Selection or rejection of a proposal does not affect this right. All proposal information, including detailed price and cost information, shall be held in confidence during the evaluation process. Notwithstanding, a list of actual proposers submitting timely proposals may be available to the public, upon request, directly after technical proposals are opened by the Owner.

Upon the completion of the evaluation of proposals, indicated by public release of an Intent to Award Notice, the proposals and associated materials shall be open for review by the public in accordance with Tennessee Code Annotated, Section 10-7-504(a)(7). By submitting a proposal, the Proposer acknowledges and accepts that the full proposal contents and associated documents shall become open to public inspection.

4.15 Contractor Registration

All service contractors with State of Tennessee contracts must be registered through the Department of Finance and Administration's Service Provider Registry prior to contract approval. However, registration with the State is not required to make a proposal (any unregistered service provider must simply register as required prior to the final contract approval). Refer to the following Internet URL for more information about the Service Provider Registry and to register "on-line."

www.state.tn.us/finance/rds/ocr/sprs.html

4.16 Contract Approval

The RFP and the contractor selection processes do not obligate the Owner and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. Contract award and Owner obligations pursuant thereto shall commence only after the contract is signed by the contractor and the Owner as required.

4.17 Contract Payments

All contract payments shall be made in accordance with the contract's Payment Terms and Conditions provisions (refer to RFP Attachment 6.1, Agreement Between Owner and Contractor). No payment shall be made until the contract is approved as required by State laws and regulations. Under no conditions shall the Owner be liable for payment of any type associated with the contract or responsible for any work done by the contractor, even work done in good faith and even if the contractor is orally directed to proceed with the delivery of services, if it occurs before contract approval or before the contract start date or after the contract end date specified by the contract.

4.18 Contractor Performance

The contractor shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the Owner. The Owner may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract.

4.19 Contract Amendment

During the course of this contract, the Owner may request the contractor to perform additional work for which the contractor would be compensated in accordance with the Contract. That work shall be within the general scope of this RFP. In such instances, the Owner shall provide the contractor a written description of the additional work, and the contractor shall submit a time schedule for accomplishing the additional work and a price for the additional work. If the Owner and the contractor reach an agreement regarding the work and associated compensation, such agreement shall be effected by means that is in accordance with the contract documents. The contractor shall not commence additional work until the Owner has issued a modification to the contract and secured all required approvals.

4.20 Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision shall not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the Owner and Proposers shall be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4.24 False Statement, Misrepresentation or Omission.

Any false statement, misrepresentation, or omission regarding a material fact concerning any aspect of a Proposer's submittals shall render the Proposer ineligible for award. The failure to submit information and documentation required by this RFP may also render the Proposer ineligible for award.

In the event a contract is awarded to the Proposer and it is later determined that the Proposer failed to disclose requested information, or made a false statement, misrepresentation or omission regarding a material fact concerning any aspect of this RFP, the Proposer may be considered in default and the Owner may terminate the contract immediately and/or withhold full or partial payment as it deems appropriate. In addition, the Owner may seek other available remedies to which it is entitled by law, including, but not limited to, debarment.

4.25 Completeness/Accuracy of Submittals.

The Proposer shall be fully responsible for and bound by all information and data included in any and all of its submittals and any appendices or attachments thereto.

- 4.25.1 It is the Proposer's responsibility to ensure that all information and data provided in any and all of its submittals in connection with this RFP are truthful, accurate and complete.

- 4.25.2 In the event that there are any material changes in the operations, management or performance capabilities of the Proposer or its listed subcontractors that may impact performance of the Contract Work after the submission of the documents, but prior to the award of the project, the Proposer shall immediately notify the Owner and inform it of the details of any such changes.

5 PROPOSAL EVALUATION AND CONTRACT AWARD

5.1 Evaluation Categories and Maximum Points

The Owner will consider qualifications and experience, technical approach, and cost in the evaluation of proposals. The maximum points that may be awarded for each of these categories are detailed below.

CATEGORIES	MAXIMUM POINTS POSSIBLE
Mandatory Requirement Items	Pass/Fail
Mandatory Information Items	--
Qualifications and Experience	40
Technical Approach	30
TOTAL	70
Cost Proposal	Low Proposal

5.2 Evaluation Process

- 5.2.1 The RFP Coordinator will use the RFP Attachment 6.3, Technical Proposal and Evaluation Guide to manage the Technical Proposal Evaluation.
- 5.2.1.1 The RFP Coordinator will review each Technical Proposal to determine compliance with mandatory requirements (refer to RFP Attachment 6.3, Technical Proposal and Evaluation Guide, Technical Proposal Section A). If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document its determination of whether: (1) the proposal meets requirements for further evaluation; (2) the Owner will request clarifications or corrections; or, (3) the Owner will determine the proposal non-responsive to the RFP and reject it.
- 5.2.1.2 A Proposal Evaluation Team, made up of three or more employees of the State of Tennessee, will evaluate each Technical Proposal that appears responsive to the RFP.
- 5.2.1.3 Each Proposal Evaluation Team member will independently, evaluate each proposal against the evaluation criteria in this RFP, rather than against other proposals, and will score each in accordance with the RFP Attachment 6.3, Technical Proposal and Evaluation Guide.
- 5.2.1.4 The Owner reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion shall be limited to specific sections of the proposal identified by the Owner. The subject Proposer shall put any resulting clarification in writing as may be required by the Owner.
- 5.2.1.5 The Owner reserves the right to receive an oral presentation from firms scoring high on the Technical Proposal. Oral presentations and the number of firms interviewed are at the sole discretion of the Owner.
- 5.2.2 Evaluations of Technical Proposals will be completed in accordance with RFP Section 2, Schedule of Events. The RFP Coordinator will complete the Technical Proposal score for each Proposer. The points assigned by each team member to each Proposer will be summarized utilizing RFP Attachment 6.5. After Technical Proposal evaluations are completed, all proposers shall be advised of the top evaluated proposers (up to three) from Part 1. No more than three proposers evaluated best in Part 1 will be invited to participate in the Cost Proposal – Part 2.
- 5.2.2.1 Proposers electing to participate in the Cost Proposal – Part 2, will do so in accordance with RFP Section 2, Schedule of Events. Upon receipt of the Cost Proposals, the RFP Coordinator will open the Cost Proposals and establish the low Cost Proposal that has been submitted by a responsible and responsive proposer. This will be done in accordance with the State Building Commission By-Laws, Policy and Procedure Item 5.04 Paragraph E. (This can be accessed at <http://state.tn.us/finance/rpa/policy.pdf>)

5.3 Contract Award Process – Agreement Between Owner and Contractor

- 5.3.1 The RFP Coordinator will forward the results of the Cost Proposal evaluation that establishes the “Recommended Proposer” with the low Cost Proposal to the proper officials of the Owner who will consider the cost proposal evaluation process results and all pertinent information available to make a determination about the recommendation of contract award to the State Building Commission. The Owner reserves the right to make an award recommendation without further discussion of any proposal.
- 5.3.2 After the approval of the State Building Commission, the Owner will issue Intent to Award Notice to identify the approved Proposer on the Intent to Award Notice date detailed in the RFP Section 2, Schedule of Events. The Intent to Award Notice shall not create rights, interests, or claims of entitlement in either the approved Proposer or any other Proposer.
- 5.3.3 The Owner will also make the RFP files available for public inspection on the Intent to Award Notice date detailed in the RFP Section 2, Schedule of Events. RFP protest procedures can be accessed at <http://state.tn.us/finance/rpa/policy.pdf>.
- 5.3.4 The approved Proposer must agree to and sign a contract with the Owner which shall be substantially the same as the RFP Attachment 6.1, Agreement Between Owner and Contractor. However, the Owner reserves the right, at its sole discretion, to add terms and conditions or to revise pro forma contract requirements in the Owner's best interests subsequent to this RFP process. No such terms and conditions or revision of contract requirements shall materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFP process.
- 5.3.5 The approved Proposer must sign and return the contract drawn by the Owner pursuant to this RFP no later than the Contract Signature Deadline date detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the Owner may determine that the Proposer is non-responsive to the terms of this RFP and reject the proposal.
- 5.3.6 If the Owner determines that the Recommended/approved Proposer is non-responsive and rejects the proposal after opening Cost Proposals, the RFP Coordinator will move that proposal to the side and start the Cost Proposal/Contract Award process over again as required by Paragraphs 5.2.2.1 through 5.3.5 above.
- 5.3.7 Contract award shall be subject to the contract approval of all appropriate State officials in accordance with applicable State laws and regulations.