



**State of Oklahoma
Department of Central Services
Central Purchasing**

Solicitation

1. **Solicitation #:** 8350000016

2. **Solicitation Issue Date:** 03/24/2011

3. **Brief Description of Requirement:**

Telemetering Water Quality Data Buoys

The Oklahoma Water Resources Board (OWRB) requires TWO telemetering vertical profile platforms for use with water quality sondes (e.g., YSI or Hydrolab). These platforms will be used to collect water temperature, dissolved oxygen, pH, Oxygen Reduction Potential (ORP), and depth data for the Grand River Dam Authority (GRDA) Dissolved Oxygen Project in Lake Hudson and Grand Lake. The vertical profilers will autonomously collect profile data at user defined intervals and then transmit the data to the OWRB's Oklahoma City office. The platforms and all component instruments must be constructed for rugged field use in a variety of conditions. The platforms and all component instruments must have all necessary hardware and programs to begin use. The unit should consist of a floating platform, winch system to raise and lower sonde, mounting structure for water quality sonde, datalogger, communications equipment necessary for telemetry, solar power supply, and cables for connectivity. See attached

4. **Response Due Date**¹: 04/12/2011

Time: 3:00 PM CST/CDT

5. **Issued By and RETURN SEALED BID TO:**

Personal or Common Carrier Delivery:

Department of Central Services, Central Purchasing
Will Rogers Building
2401 N. Lincoln Blvd, Suite 116,
Oklahoma City, OK 73105

U.S. Postal Delivery:

Department of Central Services, Central Purchasing
P.O. Box 528803,
Oklahoma City, Oklahoma 73152-8803

6. **Solicitation Type** (check one below):

- ☐ Invitation to Bid
☒ Request for Proposal
☐ Request for Quote

7. **Requesting Agency:** Department of Environmental Quality

8. **Contracting Officer:**

Name: FLORIAN GIZA

Phone: (405) 522-3428

Email: florian_giza@dcs.state.ok.us

¹ Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments")



State of Oklahoma
Department of Central Services
Central Purchasing

Responding Bidder Information

"Certification for Competitive Bid and Contract" (see page 3) **MUST** be submitted along with the response to the Solicitation.

1. **RE: Solicitation #** 8350000016 _____

2. **Bidder General Information:**

FEI / SSN : _____

VEN ID: _____

Company Name: _____

3. **Bidder Contact Information:**

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Name: _____

Contact Title: _____

Phone #: _____ FAX#: _____

Email: _____ Website: _____

4. **Oklahoma Sales Tax Permit¹:**

☐ YES – Permit #: _____

☐ NO – Exempt pursuant to Oklahoma Laws or Rules

5. **Registration with the Oklahoma Secretary of State:**

☐ YES - Filing Number: _____

☐ NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. **Workers' Compensation Insurance Coverage:**

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

☐ YES – include a certificate of insurance with the bid

☐ NO - attach a signed statement that provides specific details supporting the exemption you are claiming from the Workers' Compensation Act (Note: Pursuant to Attorney General Opinion #07-8, the exemption from 85 O.S. 2001, § 2.6 applies only to employers who are natural persons, such as sole proprietors, and does not apply to employers who are entities created by law, including but not limited to corporations, partnerships and limited liability companies.)²

Authorized Signature

Date

Printed Name

Title

¹ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <http://www.tax.ok.gov/faq/faqbussales.html>

² For frequently asked questions concerning workers' compensation insurance, see [http://www.ok.gov/oid/Consumers/Workers' Compensation Information.html](http://www.ok.gov/oid/Consumers/Workers'_Compensation_Information.html)



**State of Oklahoma
Department of Central Services
Central Purchasing**

**Certification for Competitive
Bid and/or Contract
(Non-Collusion Certification)**

A certification shall be included with any competitive bid and/or contract submitted to the State for goods or services.

Solicitation or Purchase Order #: 8350000016
Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
 - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
 - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
 - c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

☐ the competitive bid attached herewith and contract, if awarded to said supplier;

OR

☐ the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature

Certified This Date

Printed Name

Title

Phone Number

Email

Fax Number



**State of Oklahoma
Department of Central Services
Central Purchasing**

Solicitation

TABLE OF CONTENTS

A.	GENERAL PROVISIONS	3
A.1.	Definitions	3
A.2.	Offer Submission.....	3
A.3.	Solicitation Amendments.....	4
A.4.	Offer Change.....	4
A.5.	Certification Regarding Debarment, Suspension, And Other Responsibility Matters	4
A.6.	Offer Opening.....	4
A.7.	Offers Subject To Public Disclosure	4
A.8.	Late Offer	5
A.9.	Legal Contract.....	5
A.10.	Pricing	5
A.11.	Manufacturers' Name And Approved Equivalents	5
A.12.	Clarification Of Solicitation	5
A.13.	Rejection Of Offer	5
A.14.	Award Of Contract.....	5
A.15.	Contract Modification.....	5
A.16.	Delivery, Inspection And Acceptance	6
A.17.	Invoicing And Payment.....	6
A.18.	Tax Exemption	6
A.19.	Audit And Records Clause	6
A.20.	Non-Appropriation Clause	6
A.21.	Choice Of Law.....	6
A.22.	Choice Of Venue.....	6
A.23.	Termination For Cause.....	7
A.24.	Termination For Convenience	7
A.25.	Insurance	7
A.26.	Employment Relationship.....	7
A.27.	Compliance With The Oklahoma Taxpayer And Citizen Protection Act Of 2007.....	7
A.28.	Compliance With Applicable Laws	7
A.29.	Gratuities.....	7
A.30.	Preclusion From Resulting Contracts	7
A.31.	Mutual Responsibilities.....	7
A.32.	Background Checks And Verifications	8
A.33.	Confidentiality.....	8
A.34.	Unauthorized Obligations	8
A.35.	Electronic And Information Technology Accessibility	8
A.36.	Patents And Copyrights.....	9
A.37.	Equal Opportunity And Discrimination.....	9
A.38.	Imposed Conditions	9
A.39.	Lobbying.....	9
A.40.	Drug-Free Workplace	9
A.41.	Environmental Protection	9
A.42.	Assignment	9
A.43.	Severability.....	9
A.44.	Failure To Enforce.....	10
A.45.	Licensed Software.....	10
A.46.	Contract.....	10
A.47.	Conflict Of Interest	10



**State of Oklahoma
Department of Central Services
Central Purchasing**

Solicitation

A.48.	Limitation Of Liability	10
A.49.	Media Ownership (Disk Drive And/Or Memory Chip Ownership)	10
A.50.	Offshore Services.....	10
A.51.	Failure To Provide	10
A.52.	Agency Policies.....	11
A.53.	Compliance With Technology Policies	11
A.54.	Emerging Technologies.....	11
A.55.	Ownership Rights.....	11
A.56.	Right Of Use.....	11
A.57.	Source Code Escrow – Reference Title 62 O.S. § 34.31	11
A.58.	Right To Negotiate	12
A.59.	Performance And Upgrades.....	12
A.60.	Right To Renegotiate	12
A.61.	Publicity	12
A.62.	Mandatory And Non-Mandatory Terms	12
A.63.	Special Provisions	12
B.	SPECIAL PROVISIONS	13
B.1.	Submission , Modification, or withdrawal of bids.....	13
B.2.	Technical Documents.....	13
B.3.	Price Adjustments.....	13
B.4.	Product Acceptability.....	13
B.5.	Product Availability.....	13
B.6.	Energy Conservation.....	13
B.7.	Conflict of Interest.....	13
B.8.	Patents and Royalties.....	13
B.9.	Test for Conformance.....	14
B.10.	Extension of Contract.....	14
B.11.	Ordering.....	14
B.12.	Prompt Payment.....	14
B.13.	Gratuities.....	14
B.14.	Bid Conformity.....	14
B.15.	Warranty.....	14
B.16.	Competitive Negotiations.....	14
C.	SOLICITATION SPECIFICATIONS.....	16
D.	EVALUATION.....	17
D.1.	Evaluation And Award.....	18
D.2.	Competitive Negotiations Of Offers.....	18
D.3.	Selection Criteria	18
D.4.	Evaluation Process	19
E.	INSTRUCTIONS TO OFFEROR	20

A. GENERAL PROVISIONS

The following provisions shall apply where applicable to the solicitation.

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1.** "Acquisition" means items, products, materials, supplies, services and equipment a State agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act;
- A.1.2.** "Bid" means an offer in the form of a bid, proposal or quote an offeror submits in response to a solicitation;
- A.1.3.** "Bidder" means an individual or business entity that submits a bid in response to solicitation;
- A.1.4.** "Business Entity" means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, limited liability limited partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute;
- A.1.5.** "COTS" means Commercial off the Shelf.
- A.1.6.** "Contract" means the final agreement under which the services and/or products shall be governed.
- A.1.7.** "Contractor" means the Business Entity with whom the State enters into this contract. Contractor shall be synonymous with "vendor", "offeror" or other similar term;
- A.1.8.** "Closing Date" is the date the RFP closes, also proposal opening date, and response due date;
- A.1.9.** "Government Entities" means State Agencies, Boards, Commissions, Authorities, Oklahoma Counties, Cities, Schools, Hospitals, Regents of Higher Education, Colleges, Universities, Municipalities, or political subdivisions;
- A.1.10.** "Offer" shall be synonymous with "bid", "proposal", "quote" or other similar term;
- A.1.11.** "Offeror" shall be synonymous with "vendor", "bidder", or other similar term;
- A.1.12.** "Procuring Agency" means the State of Oklahoma Agency initiating the procurement on behalf of this solicitation.
- A.1.13.** "State" means the government of the State of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of Oklahoma. References to "State" in this document refer to either the Department of Central Services or the Office of State Finance.
- A.1.14.** "State Agency" includes any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body, or house of the executive or judicial branches of the State government, whether elected or appointed, excluding only political subdivisions of the State.
- A.1.15.** "State CIO" is the State Chief Information Officer, as used herein the CIO has the same authority as the State Purchasing Director for all IT and Telecommunications purchasing and are used interchangeably.
- A.1.16.** "Solicitation" means a request or invitation by the State Purchasing Director or a State agency for an offeror to submit a priced offer to sell acquisitions to the State. A solicitation may be an invitation to bid, request for proposal, or a request for quotation;

A.2. Offer Submission

- A.2.1.** Submitted offers shall be in strict conformity with the instructions to responder, and shall be submitted with a completed "Responding Bidder Information" DCS-FORM-CP-076, and any other forms completed as required by the solicitation.
- A.2.2.** Offers shall be submitted to the State Agency identified in the front page of this solicitation, in a single envelope, package, or container and shall be sealed. The name and address of the offeror shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.
- A.2.3.** The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", DCS-FORM-CP-004, must be made out in the name of the offeror and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4.** All offers shall be legibly written or typed. Any corrections to offers shall be initialed. Penciled bids and penciled corrections shall NOT be accepted and shall be rejected as non-responsive.
- A.2.5.** All offers submitted shall be subject to the Oklahoma Central Purchasing Act, the Information Services Act and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein, all of which are made part of this solicitation.

- A.2.6.** By submitting a proposal, contractor agrees not to make any claims for damages or have any rights to damages, because of any misunderstanding or misrepresentation of the specifications or because of any misinformation or lack of information.
- A.2.7.** If a contractor fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the contractor, or an error that reasonably should have been known by the contractor, the contractor shall submit a proposal at its own risk; and if awarded the contract, the contractor shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a contractor takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.3. Solicitation Amendments

- A.3.1.** If an "Amendment of Solicitation", DCS-FORM-CP-011 (or other format as provided), is issued, then the offeror shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the offer or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The Central Purchasing Division must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the offer to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the Central Purchasing Division or OSF.
- A.3.3.** It is the contractor responsibility to check the State's website frequently for any possible amendments that may be issued. The State is not responsible for the contractor failure to download any amendment documents required to complete a solicitation.

A.4. Offer Change

If the offeror needs to change an offer prior to the solicitation response due date, a new offer shall be submitted to the State with the following statement "This offer supersedes the offer previously submitted" in a single envelope, package, or container and shall be sealed. The name and address of the offeror shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

A.5. Certification Regarding Debarment, Suspension, And Other Responsibility Matters

By submitting an offer to this solicitation:

- A.5.1.** The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:
 - A.5.1.1.** Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State of Oklahoma or local department or agency;
 - A.5.1.2.** Have not within a three-year period preceding this solicitation been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - A.5.1.3.** Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and
 - A.5.1.4.** Have not within a three-year period preceding this solicitation had one or more public (Federal, State or local) contracts terminated for cause or default.
- A.5.2.** Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its offer.

A.6. Offer Opening

Sealed offers shall be opened by the soliciting agency identified in the front page of this solicitation, at the time and date specified in the solicitation as Response Due Date and Time.

A.7. Offers Subject To Public Disclosure

Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information an offeror submits as part of or in connection with an offer are public records and subject to disclosure. Offerors claiming any portion of their offer as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The State shall make the final decision

as to whether the documentation or information is confidential pursuant to 74 O.S. §85.10.

A.8. Late Offer

Offers received by the State after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

A.9. Legal Contract

- A.9.1.** Submitted offers are rendered as a legal offer and any bid, when accepted by the State, shall constitute a contract.
- A.9.2.** The contract resulting from this solicitation shall consist of the following documents in order of preference: State of Oklahoma Statutes, contract award documents, including but not limited to the Purchase Order, Contract Modifications, required certification statement, and change orders; the solicitation including any amendments; and the successful offer to the extent that the offer does not conflict with the requirements of the contract award documents or solicitation or applicable law. In the event there is a conflict between any of the preceding documents, the contract award documents prevail over the solicitation, and both the contract award documents and the solicitation shall prevail over the successful offer.
- A.9.3.** Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

A.10. Pricing

- A.10.1.** Offers shall remain firm for a minimum of one-twenty (120) days from the solicitation closing date.
- A.10.2.** Offerors guarantee unit prices to be correct.
- A.10.3.** In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the contractor in performance of the contract shall be included in the total bid price/contract amount.
- A.10.4.** All costs incurred by the Contractors for proposal preparation and participation in this competitive procurement shall be the sole responsibility of the Contractors. The State of Oklahoma shall not reimburse any Contractors for any such costs.

A.11. Manufacturers' Name And Approved Equivalents

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for information and not intended to limit competition. Offeror may offer any brand for which they are an authorized representative, which meets or exceeds the specification for any item(s). However, if offers are based on equivalent products, indicate on the offer form the manufacturer's name and number. Offeror shall submit sketches, descriptive literature, and/or complete specifications with their offer. Reference to literature submitted with a previous offer shall not satisfy this provision. The offeror shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Offers that do not comply with these requirements are subject to rejection.

A.12. Clarification Of Solicitation

Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation.

A.13. Rejection Of Offer

The State reserves the right to reject any offers that do not comply with the requirements and specifications of the solicitation. An offer may be rejected when the offeror imposes terms or conditions that would modify requirements of the solicitation or limit the offeror's liability to the State. Other possible reasons for rejection of offers are listed in OAC 580:15-4-11.

A.14. Award Of Contract

- A.14.1.** The State may award the contract to more than one offeror by awarding the contract(s) by item or groups of items, or may award the contract on an ALL OR NONE basis, whichever is deemed by the State to be in the best interest of the State of Oklahoma.
- A.14.2.** Contract awards shall be made to the lowest and best offer(s) unless the solicitation specifies that best value criteria is being used.
- A.14.3.** In order to receive an award or payments from the State of Oklahoma, vendor must be registered. The vendor registration process can be completed electronically through the DCS website at the following link:
<https://www.ok.gov/dcs/vendors/index.php>.
- A.14.4.** It is the preference of the State to award to a single vendor. However, the State reserves the right to award to multiple vendors when it has been determined to be in the best interest of the State.

A.15. Contract Modification

- A.15.1.** The contract issued as a result of this solicitation is under the authority of the State personnel signing the Contract. The contract may be modified only through a written Contract Modification, signed by the State.

- A.15.2.** Any change to the contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the Central Purchasing Division or the Office of State Finance in writing, or made unilaterally by the contractor, is a breach of the contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Contract Modifications, shall be void and without effect, and the contractor shall not be entitled to any claim under a contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant contract.

A.16. Delivery, Inspection And Acceptance

- A.16.1.** Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The contractor shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the offer shall include all such charges. All products and/or services to be delivered pursuant to the contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the contractor until accepted by the receiving agency. The contractor shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.16.2.** Contractor(s) shall be required to deliver products and services as offer on or before the required date. Deviations, substitutions, or changes in products and services shall not be made unless expressly authorized in writing by the State.

A.17. Invoicing And Payment

- A.17.1.** Contractor shall be paid upon submission of an accurate and proper invoice(s), as defined by Title 62 O.S. §34.73, to the agency, at the prices stipulated on the contract. Failure to provide accurate invoices may result in delay of processing invoices for payment. Pursuant to 74 O.S. §85.44(B), invoices shall be paid in arrears after products have been delivered or services provided. Invoices shall contain the purchase order number, a description of the services provided, and the dates of those services.
- A.17.2.** Interest on late payments made by the State of Oklahoma is governed by Title 62 O.S. §34.71 and 62 O.S. §34.72.
- A.17.3.** Failure to provide proper invoices may result in delay of processing invoices for payment.

A.18. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes. Offerors shall not include these taxes in price quotes.

A.19. Audit And Records Clause

- A.19.1.** As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the State, the successful contractor(s) agree any pertinent State or Federal agency shall have the right to examine and audit all records relevant to execution and performance of the contract.
- A.19.2.** The contractor(s) is required to retain records relative to the contract for the duration of the contract and for a period of seven (7) years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

A.20. Non-Appropriation Clause

The terms of any contract and any Purchase Order issued for multiple years under the contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other contract document, the procuring agency may terminate its obligations under the contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the contractor and shall be final and binding.

A.21. Choice Of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the contract shall be governed by the laws of the State of Oklahoma.

A.22. Choice Of Venue

Venue for any action, claim, dispute, or litigation relating in any way to the contract shall be in Oklahoma County, Oklahoma.

A.23. Termination For Cause

- A.23.1.** The contractor may terminate the contract for default or other just cause with both a 30-day written request and upon written approval from the State. The State may terminate the contract for default or any other just cause upon a 30-day written notification to the contractor.
- A.23.2.** The State may terminate the contract immediately, without a 30-day written notice to the contractor, when violations are found, when conditions preclude the 30-day notice, or when the State determines that, an administrative error occurred prior to contract performance.
- A.23.3.** If the contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.24. Termination For Convenience

- A.24.1.** The State may terminate the contract, in whole or in part, for convenience if the State Purchasing Director or the State CIO determines that termination is in the State's best interest. The State shall terminate the contract by delivering to the contractor a Notice of Termination for Convenience specifying the terms and effective date of contract termination. The contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State.
- A.24.2.** If the contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the contractor.

A.25. Insurance

The contractor shall maintain and provide proof to the State of the following insurance during the term of this agreement:

- a) Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
- b) Commercial General Liability Insurance on a per occurrence basis with limits of liability not less than \$1,000,000 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage.
- c) Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit including Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- d) Professional Errors and Omissions Insurance shall include Consultant's Computer Errors and Omissions Coverage with limits not less than \$1,000,000 per claim and in the aggregate.

A.26. Employment Relationship

The contract does not create an employment relationship. Individuals performing services required by this solicitation or a resulting contract are not employees of the State of Oklahoma or the procuring agency. The contractor's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to State employees.

A.27. Compliance With The Oklahoma Taxpayer And Citizen Protection Act Of 2007

By submitting an offer for services, the offeror certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) available at www.dhs.gov/E-Verify.

A.28. Compliance With Applicable Laws

The products and services supplied under the contract shall comply with all applicable Federal, State, and local laws and the contractor shall maintain all applicable licenses and permit requirements.

A.29. Gratuities

The right of the contractor to perform under this contract may be terminated, by written notice, if the Contracting Officer determines that the contractor, or its agent or another representative offered or gave a gratuity (e.g., an entertainment or gift) to any State employee directly involved in this solicitation. Furthermore, a contractor convicted of such violation may also be suspended or debarred.

A.30. Preclusion From Resulting Contracts

Any contractor that has provided any consulting services or technical assistance that resulted in any specifications or concepts in this solicitation, either directly or indirectly, is precluded from the award of such contract and precluded from securing a sub-contractor that has provided such services.

A.31. Mutual Responsibilities

The State and contractor agree that under this Agreement:

- A.31.1.** Neither party grants the other the right to use any trademarks, trade names, or other designations in any promotion or publication without express written consent by the other party.
- A.31.2.** This is a non-exclusive agreement and each party is free to enter into similar agreements with others.
- A.31.3.** Each party grants the other only the licenses and rights specified. No other licenses or rights (including licenses or rights under patents) are granted.
- A.31.4.** Where approval, acceptance, consent, or similar action by either party is required under this agreement, such action shall not be unreasonably delayed or withheld.

A.32. Background Checks And Verifications

At the sole discretion of the State, the contractor may be subject to user background checks. The contractor must submit the required background check information to the State in a timely manner. The State may not allow any access prior to completion of background verification.

A.33. Confidentiality

- A.33.1.** Pursuant to O.S. § Title 62 Section 34.12.C. "The Office of State Finance and all agencies of the executive branch of the State shall not be required to disclose, directly or indirectly, any information of a State agency which is declared to be confidential or privileged by State or Federal statute or the disclosure of which is restricted by agreement with the United States or one of its agencies, nor disclose information technology system details that may permit the access to confidential information or any information affecting personal security, personal identity, or physical security of State assets."

If required, the above information may be given to the contractor after the contract is awarded.

- A.33.2.** The contractor shall maintain strict physical security of all data and records entrusted to it. If certain functions are sub-contracted in accordance with the terms expressed herein, the contractor shall insure that the sub-contractor maintains strict physical security of all data and records transmitted to the sub-contractor.
- A.33.3.** The contractor shall never turn data or records over to a third-party unless specifically authorized to do so by the DCS, the State's CIO, or the State Agency Director.

A.34. Unauthorized Obligations

At no time during the performance of this contract shall the contractor have the authority to obligate the State or the agency for payment of any goods or services over and above the awarded contract. If the need arises for goods or services over and above the contract for this project, contractor shall cease the project and contact agency for approval prior to proceeding.

A.35. Electronic And Information Technology Accessibility

Pursuant to Title 74, Section 85.7d, and OAC 580:15-6-21 electronic and information technology procurements, solicitations, agreements, and contracts shall comply with applicable Oklahoma Information Technology Accessibility Standards issued by the Oklahoma Office of State Finance.

EIT Standards may be found at www.ok.gov/DCS/Central_Purchasing/index.html or http://www.ok.gov/OSF/documents/isd_itas.doc.

- 1) For Information Technology or Communications Products, Systems and Applications not requiring development and/or customization. The contractor shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system, or application by means of either a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request.

The contractor shall indemnify and hold harmless the State of Oklahoma and any Oklahoma Government entity purchasing the products, systems, or applications not requiring development and/or customized by the contractor from any claim arising out of the contractor's failure to comply with applicable Oklahoma Information Technology Accessibility Standards subsequent to providing certification of compliance to such Standards.

- 2) For Information Technology or Communications Products, Systems or Applications requiring development and/or customization. The contractor shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system, or application developed and/or customized by means of either a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request. Additional requirements and documentation may be required and compliance shall be necessary on the contractor's part. Such requirements shall be stated in documents such as State Bids, Request for Proposals, Contracts, Agreements, Purchase Orders, and Amendments.

The contractor shall indemnify and hold harmless the State of Oklahoma and any Oklahoma Government entity purchasing the products, systems, or applications from the contractor, from any claim arising out of the contractor's failure to comply with applicable Oklahoma Information Technology Accessibility Standards subsequent to providing certification of compliance to such Standards. However, the contractor shall no longer have an obligation to indemnify the State for liability resulting from products, systems or applications developed and/or customized that are not in compliance with applicable Oklahoma Information Technology Accessibility Standards ("Standards") after the State has tested and confirmed that the product, system or application meets the accessibility requirements in the Standards.

A.36. Patents And Copyrights

If in the performance of this contract, contractor uses any Product covered by a third party's patent or copyright, it is mutually agreed and understood without exception that the contractor's contract prices shall include all royalties or costs charged by the third party arising from the use of such patent or copyright. If such royalties or costs are not covered in the contractor contract price, contractor's obligations are as outlined immediately below.

- A.36.1.** If a third party claims that a product the contractor provides to an Ordering Agency infringes that party's patent or copyright, the contractor shall defend the State against that claim at contractor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided the State: (i) promptly notifies the contractor in writing of the claim; and (ii) to the extent authorized by the Attorney General of the State Oklahoma, allows the contractor to control, and cooperates with the contractor in, the defense and any related settlement negotiations; provided however, that if the Attorney General of the State of Oklahoma does not authorize the contractor to have sole control of the defense and any related settlement negotiations, then to the extent allowed by Oklahoma law, contractor shall have no obligation to indemnify the State of Oklahoma under this Section.

If such a claim is made or appears likely to be made, the State agrees to permit contractor to enable the State to continue to use the Product, or to modify it, or replace it with one that is at least functionally equivalent. If the contractor determines that none of these alternatives is reasonably available, the State agrees to return the product to the contractor upon written request. Contractor shall then give the State a refund equal to the net book value for the product, provided the State has followed applicable accounting principles. Net book value is the original cost of the product amortized over three (3) years using the straight-line accounting method of depreciation.

- A.36.2.** Contractor has no obligation regarding any claim based on any of the following: (i) anything the State provides which is incorporated into a product; (ii) modification of a product by any party other than contractor, contractor's representative or contractor's sub-contractor, or any State employee acting at the contractor's direction, or a program's use in other than its Specified Operating Environment; (iii) the combination, operation, or use of a product with other products not provided by contractor as a system, or the combination, operation or use of a product with any product, data, or apparatus that contractor did not provide; or (iv) infringement by a non-contractor product alone, as opposed to its combination with products contractor provides to the State as a system.

A.37. Equal Opportunity And Discrimination

The contractor certifies they are an Equal Opportunity Employer, a provider of services and/or assistance, and is in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended and Executive Orders 11246 and 11375. The provider assures compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), all amendments to, and all requirements imposed by the regulations issued pursuant to this act.

A.38. Imposed Conditions

Attempts to impose unacceptable conditions on the State, or impose alternative terms not in the best interest of the State shall not be tolerated. Continued attempts to impose unacceptable conditions or terms on the State shall result in a determination of your non-responsiveness of your offer due to the lack of compliance with the terms and conditions of negotiation or the solicitation.

A.39. Lobbying

The contractor certifies compliance with the Anti-Lobbying law, Section 1352, Title 31 of the U.S. Code, and implemented at 45 CFR Part 93, for persons entering into a grant or cooperative agreement over \$100,000.00 as defined at 45 CFR 93, Section 93.105 and 93.110.

A.40. Drug-Free Workplace

The contractor certifies compliance in providing or continuing to provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988, and implemented at 45 CFR part 76, Subpart F, for grantees, as defined at 45 CFR Part 76, Sections 76.605 and 76.610.

A.41. Environmental Protection

If the payments pursuant to the contract are expected to exceed \$100,000.00, then the contractor must comply with all applicable Federal Laws such as Section 306 of the Clean Air Act (42 U.S.C. 1857 (L)), Section 508 of the Clean Water Act (33 U.S.C. 1638), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R Part 15), which prohibit the use under nonexempt Federal contract, grant or loans of facilities included on the EPA List of Violating Facilities.

A.42. Assignment

Contractor's obligations under this contract may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the State.

A.43. Severability

If any provision for this contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such

provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

A.44. Failure To Enforce

Failure by the State of Oklahoma at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the State of Oklahoma to enforce any provisions at any time in accordance with its terms.

A.45. Licensed Software

A.45.1. Under no circumstances shall the contractor be required to install or maintain software packages that it has reason to believe are not properly licensed.

A.45.2. All software/software licensing previously installed by the agency remains the responsibility of the agency. Software used by the contractor in performance of this contract is the responsibility of the contractor.

A.46. Contract

The contract shall be for indefinite delivery and indefinite quantity for the products/services awarded.

A.47. Conflict Of Interest

Contractor must disclose any contractual relationship or any other relevant contact with any State personnel, or other State contractors involved in the development of this solicitation that result in a contract. Any conflict of interest shall, at the sole discretion of State, be grounds for termination of project involvement; provided that such termination must be made within a reasonable time after disclosure of such relationships or contacts.

In addition to any requirements of law or through a professional code of ethics or conduct, the contractor and the contractor's employees performing services for the State are required to disclose any outside activities or interests that conflict or may conflict with the best interests of the State. Further, such employees shall not plan, prepare, or engage in any activity that conflicts or may conflict with the best interests of the State of Oklahoma during the period of this agreement without prior written approval of the State. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees, other third-party individuals, or entities holding contracts with the State.

A.48. Limitation Of Liability

To the extent any limitation of liability contained herein is construed by a court of competent jurisdiction to be a limitation of liability in violation of Oklahoma law, such limitation of liability shall be void.

A.49. Media Ownership (Disk Drive And/Or Memory Chip Ownership)

A.49.1. In conjunction with the Oklahoma Computer Equipment Recovery Act and the Office of State Finance's Information Security, Policies, Procedures, and Guidelines – Media Sanitization Procedures for the Destruction or Disposal of all Electronic Storage Media: disk drives and memory cards purchased with or for use in leased equipment under this contract remain the property of the State of Oklahoma.

A.49.2. Disk drives and memory cards purchased with or included in leased or purchased equipment under this contract shall remain the property of the State of Oklahoma; therefore, 'Keep Your Hard Drive' costs must be included in the offeror's proposed cost.

A.49.3. Personal Identification Information may be retained within electronic media devices and components; therefore, the State shall not allow the release of electronic media either between State Agencies or for the resale of refurbished equipment that has been in use by State entities, by the contractor to the general public or other entities. Electronic Media Retention by the State entities for equipment whether purchased or leased shall also be applied to replacement devices and components the selected offeror's may supply during the downtime (repair) of equipment purchased or leased through this contract. If a device has to be removed from a location for repairs, there shall be sufficient safeguards in place (such as a record of hard drive serial numbers) to protect the Personal Identification Information that may be stored within the hard drive/memory of the device.

A.49.4. The State of Oklahoma IT Security Policies may be found at:
www.ok.gov/OSF/documents/StateOfOklahomaInfoSecPPG_osf_12012008.pdf

A.50. Offshore Services

No offshore services are provided for under the resulting contract.

A.51. Failure To Provide

The contractor's repeated failure to provide defined services, without reasonable basis as determined by the State of Oklahoma, shall constitute a material breach of the contractor's obligations, which may result in cancellation of the contract.

A.52. Agency Policies

The contractor's employees and/or sub-contractors must adhere to the agency policies pertaining to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. It is up to the contractor to review and relay agency policies covering the above to the consulting staff.

A.53. Compliance With Technology Policies

The contractor agrees to adhere to the State of Oklahoma "Information Security Policy, Procedures, and Guidelines" available at:

www.ok.gov/OSF/Information_Services/ISD_Publications.html

A.54. Emerging Technologies

The State of Oklahoma reserves the right to modify the terms of this contract at any time to allow for technologies not identified elsewhere under this document. If there are repeated requests for an "emerging technology" and the State feels it is warranted to add such technologies, the State reserves the right to include such technology hereunder or to issue a formal modification or amendment to the contract.

A.55. Ownership Rights

- a) It is understood and agreed that the Software is being developed by the contractor for the sole and exclusive use of the State of Oklahoma. Moreover, except with regard to any deliverable based on contractor's reusable or pre-existing intellectual property ("Utilities"), the State of Oklahoma shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto.
- b) Except for any utilities, all work performed by the contractor of software and any supporting documentation therefore shall be considered as Works for Hire (as such are defined under the U.S. Copyright Laws) and, as such, shall be opened by and for the benefit of State of Oklahoma.

A.56. Right Of Use

- a) The State has the right to use or not use the software, not including any utilities, and to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. However, contractor shall bear no liability for any changes the State makes to such software.
- b) In the event that it should be determined that any of such software or supporting documentation does not qualify as a "Work Made for Hire", contractor irrevocably grants to the State an non-exclusive, irrevocable license to use such portion. With respect to any Utilities, the State shall have the right to perpetual, internal use of the Utilities included in the deliverable.
- c) Contractor shall assist the State and its Agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering Software. contractor shall sign any such applications, upon request, and deliver them to the State. The State of Oklahoma shall bear all expenses that it causes to be incurred in connection with such copyright, trademark, and/or patent protection.

A.57. Source Code Escrow – Reference Title 62 O.S. § 34.31

No State agency, as defined by Section 250.3 of Title 75 of the Oklahoma Statutes, nor the Purchasing Division of the Department of Central Services, unless otherwise provided by Federal law, shall enter into a contract for the acquisition of customized computer software developed or modified exclusively for the agency or the State, unless the contractor agrees to place into escrow with an independent third party the source code for the software and/or modifications.

- A.57.1.** The contractor must agree to place the source code for the software and any upgrades supplied to an agency in escrow with a third party acceptable to the agency and to enter into a customary source code escrow agreement which includes a provision that entitles the agency to receive everything held in escrow upon the occurrence of any of the following:
- a) A bona fide material default of the obligations of the contractor under the agreement with the agency;
 - b) An assignment by the contractor for the benefit of its creditors;
 - c) A failure by the contractor to pay, or an admission by the contractor of its inability to pay, its debts as they mature;
 - d) The filing of a petition in bankruptcy by or against the contractor when such petition is not dismissed within sixty (60) days of the filing date;
 - e) The appointment of a receiver, liquidator or trustee appointed for any substantial part of the contractor's property;
 - f) The inability or unwillingness of the contractor to provide the maintenance and support services in accordance with the agreement with the agency; or
 - g) The ceasing of a contractor of maintenance and support of the software.

The fees of any third-party escrow agent subject to this section shall be borne by the contractor.

A.57.2. As used in this section:

- a) "State agency" shall include all State agencies, whether subject to the Central Purchasing Act or not, except the Oklahoma Lottery Commission; and
- b) "Source code" means the programming instruction for a computer program in its original form, created by a programmer with a text editor or a visual programming tool and saved in a file.

A.58. Right To Negotiate

The State reserves the right, at its sole discretion, to request clarifications of technical proposals or to conduct discussions for the purpose of clarification with any or all contractors. The purpose of any such discussions shall be to ensure full understanding of the proposal. If clarifications are made because of such discussion, the contractor(s) shall put such clarifications in writing.

A.59. Performance And Upgrades

Offeror shall provide documentation of the projected schedule of recommended or required system upgrades to this system or any software provided to service this system for the three (3) year period following the target purchase date. If offeror does not plan recommended or projected system upgrades, the offeror shall provide documentation in the offer that the offeror plans no system upgrades to the high technology system for the three (3) year period following the target purchase date (Title 74 § 85.7c).

A.60. Right To Renegotiate

Prior to exercising the State's right to cancel a contract, the State may renegotiate an existing contract with a contractor for the purpose of obtaining more favorable terms for the State, provided that the term of the contract is not modified.

A.61. Publicity

The award of this contract to contractor is not in any way an endorsement of contractor or contractor's services by the State and shall not be so construed by contractor in any advertising or publicity materials. Contractor agrees to submit to the State all advertising, sales promotion, and other publicity matters relating to this contract wherein the State's name is mentioned or language used from which the connection of the State's name therewith may, in the State's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of the State. Nor shall contractor release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning this project without obtaining the prior written approval of the State.

A.62. Mandatory And Non-Mandatory Terms

A.62.1. Whenever the terms "shall", "must", "will", or "is required" are used in this RFP, the specification being referred to is a mandatory specification of this RFP. Failure to meet any mandatory specification may cause rejection of the Offeror's Proposal.

A.62.2. Whenever the terms "can", "may", or "should" are used in this RFP, the specification being referred to is a desirable item and failure to provide any item so termed shall not be cause for rejection.

A.63. Special Provisions

Special Provisions apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

B. SPECIAL PROVISIONS

B.1. Submission, Modification or Withdrawal of RFPs

RFP files are available for public viewing after award. RFP files may be examined during normal working hours by appointment. RFP tabulations will not be provided by telephone.

B.2. Technical Documentation.

- (a) All products bid must meet or exceed all provisions and specifications of the RFP. Technical documentation is required by this RFP. Its purpose is to demonstrate compliance of the product bid with applicable technical requirements of the RFP and to allow a proper evaluation of the product.
- (b) Failure to provide the required documentation with the bid submittal shall render the responder non responsive, unless the Central Purchasing Division, in its sole discretion and in the best interest of the State, determines the acceptability of the product offered through technical documentation available within the Division as of the date of time of bid opening. Such authority of the Division shall in no way relieve the bidder from the ultimate responsibility to submit the required documentation, nor shall any bidder assume that such documentation is otherwise available to the division. The State shall not be responsible for the accuracy of the technical documentation in its possession.
- (c) All Technical documentation shall be marked with the bidders name, address, bid number, and complete commodity code number.

B.3. Price Adjustments.

Manufacturer's price increases, or other increases in the cost of doing business may not be passed on to the State of Oklahoma. Any price decrease effectuated during the contract period by reason of market change shall be passed onto the State of Oklahoma. No price reduction on a statewide contract may be offered to an agency unless that reduction is offered to all agencies.

B.4. Product Acceptability.

- (a) RFPs will be considered only on products, manufactured or produced for distribution and use in the United States.
- (b) Products shall be new and current. Factory reconditioned, refurbished or second equipment will not be accepted.

B.5. Product Availability.

Product proposed must be a current product model and available for general marketing purposes at the opening of this solicitation. Perceptive proposer must use best effort to assure product availability through duration of contract period.

B.6. Energy Conservation.

Oklahoma is an energy conservative State and we welcome any comments on your proposal that would indicate any energy savings.

B.7. Conflict of Interest.

The RFP hereunder is subject to provisions of the Oklahoma Statutes. All suppliers must disclose with the solicitation, the name of any officer, director, or agency who is also an employee of the State of Oklahoma or any of its agencies. Further, all suppliers must disclose the name of any State Employee who owns, directly or indirectly, an interest of five percent (5%) or more in the suppliers firm or any of its branches.

B.8. Patents and Royalties.

The supplier, without exception, shall indemnify and save harmless the State of Oklahoma and its employees from liability of any nature or kind, including cost and expense for or on account of any copyrighted, patented or unpatented invention, process, or article manufactured or used in the performance of the contract including its use by the State of Oklahoma. If the supplier uses any design, device or materials covered by letters, patent copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

B.9. Testing for Conformance.

B-9-1 Items may be tested for compliance with specifications by appropriate testing laboratories. The data derived from any tests for compliance with specifications are public records and open to examination thereto in accordance with Oklahoma Statutes.

B-9-2 Items delivered not conforming to specifications may be rejected. Any violations of these stipulations may result in supplier's name being removed from the Central Purchasing Supplier mailing list.

B-9-3 In all cases when material fails to meet specifications the cost of testing shall be paid for by the vendor, both on samples and delivered material.

B.10. Extension of Contract.

The State may extend the term of this contract up to 90 days if mutually agreed upon by both parties in writing.

B.11. Ordering.

Any supplies and/or services to be furnished under this contract shall be ordered by issuance of written purchase orders by state agencies and authorized entities. There is no limit on the number that may be issued. Delivery to multiple destinations may be required. All orders are subject to the terms and conditions of this contract. Any order dated prior to expiration of this contract shall be performed. In the event of conflict between a purchase order and this contract, the contract shall have precedence.

B.12. Prompt Payment Discounts.

Discounts for prompt payment will not be considered in the evaluation of offers. However, any discount offered will be annotated on the award and may be taken if payment is made within the discount period.

B.13. Gratuities.

The right of the successful proposer to perform under this contract may be terminated by written notice if the Contracting Officer determines that the successful proposer, or its agent or another representative offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official or employee of Central Purchasing.

B.14. Bid Conformity.

By submitting a response to this solicitation, the bidder attests that the supplies or services conform to specified contract requirements.

B.15. Warranty.

The Successful proposer agrees the products furnished under this contract shall be covered by the most favorable commercial warranties the contractor gives to any customer for such products; and rights and remedies provided herein are in addition to and do not limit any rights afforded to the State of Oklahoma by any other clause of this contract.

B.16. Competitive Negotiations Of Offers

In accordance with Oklahoma Statutes, Title 74 subsections 85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that mitigate the State's risks. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

Negotiations may be conducted in person, in writing, or by telephone.

Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

Terms, conditions, prices, methodology, or other features of the offeror's offer may be subject to negotiations and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

BEST and FINAL – The State may request best and final offers if deemed necessary, and shall determine the scope and subject of any best and final request. However, the vendor should not expect that the State shall ask for best and finals to give the vendor an opportunity to strengthen your offer. Therefore, the vendor must submit your best offer based on the terms and condition set forth in this solicitation.

C. SOLICITATION SPECIFICATIONS

C.1.0. SPECIFICATIONS FOR TELEMETERING WATER QUALITY DATA BUOYS

- C.1.1.** The Oklahoma Water Resources Board (OWRB) requires two telemetering vertical profile platforms for use with water quality sondes (e.g., YSI or Hydrolab). These platforms will be used to collect water temperature, dissolved oxygen, pH, Oxygen Reduction Potential (ORP), and depth data for the Grand River Dam Authority (GRDA) Dissolved Oxygen Project in Lake Hudson and Grand Lake. The vertical profilers will autonomously collect profile data at user defined intervals and then transmit the data to the OWRB's Oklahoma City office. The data collected will be used to help fulfill GRDA's requirements from the Federal Energy Regulatory Commission (FERC) for DO testing and mitigation below Hudson and Grand Lakes. The platforms and all component instruments must be constructed for rugged field use in a variety of conditions. The platforms and all component instruments must have all necessary hardware and software to begin use. The unit should consist of a floating platform, winch system to raise and lower sonde, mounting structure for water quality sonde, datalogger, communications equipment necessary for telemetry, solar power supply, and cables for connectivity.

C.2.0. Specific Requirements

C.2.1. New Floating Platform

- C.2.1.1. The water quality data platform shall be capable of providing adequate buoyancy for equipment and at least two (2) technicians. The platform must be able to carry these loads in rough lake conditions as well.
- C.2.1.2. The water quality data platform shall provide lockable, accessible instrument housing.
- C.2.1.3. The floating platform shall include mooring eyes.
- C.2.1.4. The floating platform shall be supplied with a solar-powered LED beacon with at least 15 flashes per minute.

C.2.2. New Power Supply

- C.2.2.1. The vertical profiler shall have a self contained solar power supply.
- C.2.2.2. The power supply shall consist of power packs made up of solar panel(s) with at least a 210 Amp-Hr battery housed in a watertight enclosure.
- C.2.2.3. All leads, cables, and connections necessary for operation shall be provided with the power supply and ready for connection to allow operation.
- C.2.2.4. All enclosures shall be accessible.

C.3.0. New Vertical Profiler Mechanism

- C.3.1. The vertical profiler shall be capable of deploying the sonde at specific user defined intervals throughout the water column.
- C.3.2. The vertical profiler should be capable of performing at least eight (8) profiles during a 24 hr. period
- C.3.3. The vertical profiler shall use a high resolution rotary encoder to provide precise vertical positioning.

C.4.0. New Data Logger

- C.4.1. The data logger shall be packaged in a PVC, or equivalent housing. The enclosure shall not exceed length or diameter that would compromise the buoyancy of the platform.
- C.4.2. The data logger shall be capable of interfacing to industry standard sensors including SDI-12, 4-20mA, voltage, RS-232, RS-485, Modbus RTU, NMEA0183, thermistor, and pulse count. Specifically, the data logger must be capable of interfacing with and operating YSI 6-series sondes.
- C.4.3. The data logger shall be designed to quickly and easily connect to the sensors without the need to write additional programs or scripts.
- C.4.4. The data logger shall be pre-assembled.
- C.4.5. The data logger shall be capable of allowing RS232 terminal connections to attached smart sensors via cellular telemetry.
- C.4.5.1. The data logger shall be capable of updating its internal software to newer versions
- C.4.5.2. The data logger shall have internal memory of at least 2 GB for storage of data.
- C.4.5.3. The data logger shall have connectivity to cellular telemetry.
- C.4.5.4. The data logger shall be able to identify the bottom depth using a depth sounder.
- C.4.5.5. The data logger shall be able to identify the surface using various sensors or techniques.

- C.4.5.6. The data logger shall be able to accurately control the winch mechanism to position the sonde in the water column at specific depths.
- C.4.5.7. The data logger shall have a built in LCD display for in-field management.

C.5.0. New Telemetry

- C.5.1. The water quality data logger should be supplied with cell phone telemetry capabilities.
- C.5.2. The cellular data logger shall be capable of sending SMS text messages and email alerts directly from the data logger based on parameter limits.
- C.5.3. The cellular data logger shall allow the user to communicate via RS232 to water quality instruments and allow the user to access the instrument menu as if the instrument was connected directly to a computer.
- C.5.4. The cellular data logger shall be capable of updating its internal software to newer versions.
- C.5.5. The cellular data logger shall include a factory-activated EDGE modem for connection through the AT&T network.
- C.5.6. All antennae and connections shall be provided for full functionality.

C.6.0. New Software

- C.6.1. All initial programming and scripts shall be provided by the manufacturer.
- C.6.2. If software is necessary for cellular connection, it shall be provided as part of the bid.
- C.6.3. Only one piece of software should be necessary for the functioning of multiple water quality buoy platforms.
- C.6.4.....Software shall contain an extensive library of predefined device drivers for instruments from multiple vendors, including set up dialogs and drop-down menus for instrument configuration that will eliminate the need for complicated programming commands. The software shall be capable of logging data from RS232 devices that are in the driver database.
- C.6.5. The software shall have a web-based user interface for configuration, management, and programming.
- C.6.6. The software shall be capable of posting data to a data hosting server for the purposes of being displayed on a website automatically and on a user-defined schedule.
- C.6.7. The software shall be capable of importing and exporting data both manually and automatically.
- C.6.8. The software shall be able to limit and filter what data is displayed in reports. This filtering shall incorporate the exclusion or inclusion of data points as well as the inclusion and exclusion of data values.
- C.6.9. The software shall be capable of condensing data sets to daily, monthly, or hourly statistical summaries for quick display including average, minimum, maximum, and standard deviation values.
- C.6.10. The software shall allow statistical data as well as notes and study information to be quickly entered onto the top of every report that is automatically generated.
- C.6.11. The software shall be capable of aligning data at resolutions down to one hour. Any data in the defined time range will be aligned with corresponding data.
- C.6.12. The software shall not require an annual maintenance fee.

C.7.0. New Connectivity

- C.7.1. The entire unit should be shipped with all connections, cables, and adaptors for working with an OWRB/GRDA owned YSI 6-series sonde. The sonde will be placed in instrument upon delivery.
- C.7.2. The unit shall be shipped ready to plug and play with all programming performed and checked at the manufacture.

C.8.0. New Trailer

- C.8.1. The entire unit should be shipped with a trailer used to transport and deploy the unit at various locations.
- C.8.2. The trailer shall be capable of handling the weight of the entire unit.

C.9.0. SPECIAL PROVISIONS

- C.9.1. The OWRB will require that the vendor provide references (name, company, and phone number) for at least two customers who have purchased equipment that meets the above specifications.
- C.9.2. The OWRB will require that the selected vendor provide assistance with a minimum of one installation and provide free training on the operation and maintenance of the unit (does not need to be on site).
- C.9.3. Bid prices must be FOB destination. All shipping, packaging, handling, and delivery charges must be paid for by the vendor and must be included as part of the bid amount. The units must be delivered to OWRB at 3800 N. Classen Blvd, Oklahoma City, OK within 45 days of a written or verbal request by the OWRB.

D. EVALUATION

D.1. Evaluation And Award

- D.1.1.** Offers shall be evaluated on the “best value” determination in accordance with the State of Oklahoma Statute Title 74, Section 85.
- D.1.2.** The State reserves the right to request demonstrations and question clarifications from any or all-responding contractors.

D.2. Competitive Negotiations Of Offers– Edit To Fit Requirements

In accordance with Oklahoma Statutes, Title 74 subsections 85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that mitigate the State's risks. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

- D.2.1.** Negotiations may be conducted in person, in writing, or by telephone.
- D.2.2.** Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.
- D.2.3.** Terms, conditions, prices, methodology, or other features of the offeror's offer may be subject to negotiations and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.
- D.2.4.** The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.
- D.2.5.** BEST and FINAL – The State may request best and final offers if deemed necessary, and shall determine the scope and subject of any best and final request. However, the vendor should not expect that the State shall ask for best and finals to give the vendor an opportunity to strengthen your offer. Therefore, the vendor must submit your best offer based on the terms and condition set forth in this solicitation.

D.3. Selection Criteria

_____ Price

- _____ Is the water quality data platform capable of providing adequate buoyancy for equipment and at least two (2) technicians?
- _____ Is the water quality data platform able to provide lockable, accessible instrument housing?
- _____ Is the floating platform supplied with self contained solar power supply?
- _____ Are all leads, cables, and connections necessary for operation provided with the power supply and ready for connection to allow operation?
- _____ Is the vertical profiler capable of deploying the sonde at specific user defined intervals throughout the water column?
- _____ Does the vertical profiler use a high resolution rotary encoder to provide precise vertical positioning?
- _____ Is the data logger packaged in a PVC, or equivalent housing?
- _____ Is the data logger capable of interfacing to industry standard sensors including SDI-12, 4-20mA, voltage, RS-232, RS-485, Modbus RTU, NMEA0183, thermistor, and pulse count? Specifically, is the data logger capable of interfacing with and operating YSI 6-series sondes?
- _____ Is the data logger capable of updating its internal software to newer versions?
- _____ Does the data logger have connectivity to cellular telemetry?
- _____ **Can the data logger identify the bottom depth using a depth sounder?**
- _____ Can the data logger identify the surface using various sensors or techniques?

- _____ Does the data logger have a built in LCD display for in-field management?
- _____ Are all initial programming and scripts provided by the manufacturer?
- _____ Is the software a web-based user interface for configuration, management, and programming?
- _____ Is the software capable of posting data to a data hosting server for the purposes of being displayed on a website automatically and on a user-defined schedule?
- _____ Is the software capable of condensing data sets to daily, monthly, or hourly statistical summary for quick display?
- _____ Is the entire unit shipped with a trailer used to transport and deploy the unit at various locations?
- _____ Is the trailer capable of handling the weight of the entire unit?
- _____ Did the vendor provide references (name, company, and phone number) for at least two customers who have purchased equipment that meets the above specifications? Quality of References will affect scoring.
- _____ Is the vertical profiler fully operational after delivery and initial setup?

D.4. Evaluation Process

D.4.1. Evaluation Process – Determination of Solicitation Responsiveness

A responsive offer is defined as an offer that meets all the general mandatory requirements as outlined below:

(DEFINE REQUIREMENTS TO BE CONSIDERED RESPONSIVE)

- Responding Bidder Information Sheet complete Form 076
- Certification for Competitive Bid and Contract (Non-Collusion Certification) Form 004
- Amendments, if issued, are acknowledged.
- **Meet minimum Specifications of Solicitation.**

Meeting all requirements outlined above allows the offer to proceed in the evaluation process. Failure to meet all of the above may result in the proposal being disqualified from further evaluation.

Note: The following evaluation process is not presented in any sequence as any section process may overlap the other in the evaluation.

D.4.2. Evaluation Process - Evaluation of Offer

The technical section of the offer is evaluated based on the required submittals in Section E.

D.4.3. Evaluation Process - Evaluation of Cost.

Cost comparisons are performed.

D.4.4. Evaluation Process – Demonstrations

If desired by the evaluation committee, the vendor may be required to provide product/services demonstrations.

D.4.5. Best Value Evaluation of Product/Services

D.4.5.1. Selection

The selection and award of contractor is based upon which contractor best meets the needs of the State.

The State reserves the right to negotiate with one or more contractors, at any point during the evaluation. The State may negotiate any and all content of the offer.

D.4.6. The State reserves the right to request a 'best and final' offer from one or more contractors.

D.4.7. Contractors should be prepared to participate in oral presentations and demonstrations to define their submittal, to introduce their team, and to respond to any and all questions regarding their offer if requested by the State prior to award.

E. INSTRUCTIONS TO OFFEROR

E.1. Submission Of Offer

- E.1.1.** Completeness of offer(s): It is desirable that the offeror respond in a complete, but concise manner. It is the offeror's sole responsibility to submit information in the offers as requested by the solicitation. The offeror's failure to submit required information may cause their offer to be rejected. However, unnecessary information should be excluded from the offeror's offer.
- E.1.2.** Copies: the offeror's offer should be an original document. The offeror should include a "machine readable" version, preferably in Microsoft WORD format, on CD or DVD, of the offeror's offer.

E.2. Explanation To Offeror

- E.2.1.** Offerors who need clarification shall contact the Central Purchasing contracting officer shown on the RFP. Oral explanations or instructions shall not be binding. Any information given an offeror concerning a solicitation shall be provided promptly to all other offerors as an amendment, if that information is necessary in submitting an offer or if the lack of it would be prejudicial to other offerors.
- E.2.2.** Offerors who believe solicitation requirements or specifications are unnecessarily restrictive or limit competition may submit a request for administrative review, in writing, to the State. To be considered, a request for review must be received no later than the due date and time for submission of questions. The State shall promptly respond in writing to each written review request, and where appropriate, issue all revisions, substitutions or clarifications through a written amendment to the solicitation. Requests for administrative review of technical or contractual requirements shall include the reason for the request, supported by information, and any proposed changes to the requirements.
- E.2.3.** General Solicitation Questions – Offeror may submit general questions concerning the specifications of the solicitation. These questions shall be promptly answered in the form of an amendment and posted on the DCS website.
- E.2.4.** When posing questions, every effort should be made to be concise and include section references, when possible.
- E.2.5.** Offerors are advised that any questions received after **April 05, 2011** shall not be answered.

E.3. P-Cards

The State of Oklahoma has issued P-Cards to most State agencies. The current P-Card contract holder utilizes VISA

If awarded a statewide contract will your company accept the State of Oklahoma approved purchase card:

Yes _____ No _____ (check one)

E.4. Deliverables (Define In Detail All Required Deliverables To Be Considered Responsive – Please Note Mandatory Deliverables Listed Below))

Note: Deliverables are to be in both hard copy and in a single machine-readable format, preferably in Microsoft Word format, on either CD or DVD.

- E.4.1.** Completed "Responding Bidder Information" DCS/Purchasing Form 076.
- E.4.2.** Completed "Certification for Competitive Bid and Contract" DCS/Purchasing Form 004.
- E.4.3.** References – Two References provided must contain a contact person with full contact information (i.e., current employer, telephone number, mailing address, e-mail address, and fax number).
- E.4.4.** Company Information – Vendor must provide detailed information on their company, including principals involved, number of employees, location, years in existence, a statement of financial stability, and any litigation or pending litigation for the past five years, or a statement indicating there is no litigation.
- E.4.5.** Response to Requirements as outlined in **Section C,D,E,F,G, and H**
- E.4.6.** Pricing
- E.4.7.** Note: Agreements not submitted with contractor's offer shall not be considered after contract award.
- E.4.8.** Any software licensing, maintenance, or service agreements the contractor requires, should they be the successful contractor. Agreements not submitted with contractor's offer shall not be considered after contract award.
MANDATORY DELIVERABLE

Note: Deliverables are to be in both hard copy and in a single machine-readable format, preferably in Microsoft Word format, on either CD or DVD.

E.5. Notice Of Award

A notice of award in the form of a PO or contract resulting from this solicitation shall be furnished to the successful contractor and shall result in a binding contract.

F. CHECKLIST

NONE

G. OTHER

NONE

H. PRICE AND COST



SOLICITATION REQUEST

☐ Request for Quote

☐ Request for Proposal

☐ Request for Bid

Dispatch via Print

Water Resources Board
OKLAHOMA WATER RESOURCES BOARD
3800 N CLASSEN BLVD
OKLAHOMA CITY OK 73118

Vendor: NAME

Address: _____

Address: _____

City: _____ ST: _____ ZIP: _____

Request Quote ID.	Date	Buyer	Page
8350000016	03/17/2011	Florian Giza (580)	1
Payment Terms	DateTime	Quote Open	Closing
0 Days	03/21/2011 07:46 AM	04/12/2011 03:00 PM	

Requisition Number Reference: From Req ID - 8350000134

Ship To: OKLAHOMA WATER RESOURCES BOARD
3800 N CLASSEN BLVD
OKLAHOMA CITY OK 73118

Bill To: OKLAHOMA WATER RESOURCES BOARD
3800 N CLASSEN BLVD
OKLAHOMA CITY OK 73118

Supplier Responses				
Line	Cat CD / Item # - Descr	Qty.	UOM	Unit Cost Ext. Cost
1	41114300 / 1000023670 BOUY:Telemetering Data Buoy-Water Quality telemetering vertical profile platform	2	EA	

Freight Terms: FOB DEST

Ship Via: COMMON

Lead Time: _____

Supplier Remarks:

COMMENTS:

Agency Contact Wilma Beagle, Lance Phillips, Monty Porter 530-8800
wrbeagle@owrb.ok.gov

Brief description of requirement:

Telemetering Water Quality Data Buoys

The Oklahoma Water Resources Board (OWRB) requires TWO telemetering vertical profile platforms for use with water quality sondes (e.g., YSI or Hydrolab). These platforms will be used to collect water temperature, dissolved oxygen, pH, Oxygen Reduction Potential (ORP), and depth data for the Grand River Dam Authority (GRDA) Dissolved Oxygen Project in Lake Hudson and Grand Lake. The vertical profilers will autonomously collect profile data at user defined intervals and then transmit the data to the OWRB's Oklahoma City office. The platforms and all component instruments must be constructed for rugged field use in a variety of conditions. The platforms and all component instruments must have all necessary hardware and programs to begin use. The unit should consist of a floating platform, winch system to raise and lower sonde, mounting structure for water quality sonde, datalogger, communications equipment necessary for telemetry, solar power supply, and cables for connectivity. See attached specifications.

This is NOT AN ORDER

All returned quotes and related documents must be identified with our request for quote Number.

Authorized Signature